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A round-up of recent issues

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Tax update

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1. General

1.1 Our coverage of the Autumn statement

Detailed coverage of the Chancellor's announcements can be found on our website at the link below.

The much-anticipated Autumn Statement, referred to by the Chancellor as a balanced plan for stability, focussed on tackling inflation and supporting the economy on the path to growth. While headline-grabbing changes included a big reduction in the threshold for paying additional rate tax, an increase in the energy windfall tax and a new temporary levy introduced on electricity generators, tax changes revolved around thresholds and allowances. The cuts to the dividend and capital gains tax allowances, along with the cut to the additional rate threshold for income tax, will increase the tax burden on specific taxpayers, but to a limited extent. The more significant revenue raisers will be the freezes to thresholds, dragging many more taxpayers into higher rates as bands remain frozen until 2028.

www.evelyn.com/budget/autumn-statement-2022/

1.2 Office of Tax Simplification closure confirmed

Despite representations from the professional bodies, the Government has set out a timetable for the closure of the Office of Tax Simplification (OTS).

The findings from the call for evidence on hybrid and distance working will be the OTS's final publication, and formal closure will be included in the Spring 2023 Finance Bill.

www.gov.uk/government/news/update-on-the-closure-of-the-office-of-tax-simplification

1.3 HMRC agent update 102

HMRC has published agent update 102, which provides an overview of the recent issues of which tax agents should be aware. It includes updates on HMRC services and forthcoming changes.

The latest agent update summarises various recent issues and changes, including:

- A reminder to check if clients are liable for plastic packaging tax.
- The forthcoming basis period reforms.
- Guidance on working through an umbrella company.
- Paying voluntary class 2 NICs in returns filed late.
- The new online service for advance assurance applications for venture capital schemes.
- Draft regulations for digital platforms.
- Update on UK implementation of global tax reform.
- Paying deferred VAT.
- HMRC now takes payments by card reader if an HMRC officer is visiting a taxpayer about debt.
- Stopping paper BACS repayment notifications for self-assessment and CT.
- The new income record viewer.
- Links to help and support for agents, including the online forum.

www.gov.uk/government/publications/agent-update-issue-102

1.4 UK signs information sharing agreements

Two new OECD multilateral agreements on exchange of information have been signed by the UK, on data from digital platforms and common reporting standard (CRS) avoidance arrangements.

22 jurisdictions, including the UK, have signed the agreement that allows automatic exchange of information collected by operators of digital platforms. This is in respect of transactions made and income received by the sellers using these platforms.

15 jurisdictions, including the UK, have signed a separate agreement supporting the OECD model mandatory disclosure rules on CRS avoidance arrangements and opaque offshore structures. This facilitates an annual automatic exchange of information from intermediaries that have identified arrangements that disguise the beneficial ownership of assets held offshore.

www.oecd.org/tax/exchange-of-tax-information/28-jurisdictions-sign-international-tax-agreements-to-exchange-information-with-respect-to-income-earned-on-digital-platforms-and-offshore-financial-assets.htm

www.step.org/industry-news/jurisdictions-agree-exchange-information-digital-platforms-and-crs-avoidance

2. Private client

2.1 HMRC nudge letter to former persons of significant control

HMRC is writing to those who ceased to be persons of significant control (PSCs) in 2020/21 about CGT reporting.

This is an educational campaign rather than a suggestion that the taxpayer has erred. The letters explain that if the cessation of PSC status came about because the taxpayer disposed of shares, CGT may be due. It gives simple guidance on CGT, directs the taxpayer to further help and guidance, and explains that if a share disposal was omitted the tax return should be amended.

This campaign, targeting former PSCs about CGT, is separate from the recently reported nudge letters going to current PSCs with income under £100,000, who are being encouraged to check that no taxable income or gains were underreported.

www.tax.org.uk/hmrc-s-cgt-reminder-letter-to-those-who-are-no-longer-persons-of-significant-control-in-2021-22

3. Trusts, estates and IHT

3.1 Further guidance on operation of DOTAS for IHT

The updated guidance covers technical points on which the professional bodies had requested clarification.

Included is guidance on Deeds of variation, undivided shares, business property relief and sales, reversionary leases, multiple trusts, gilts, and grandfathering arrangements.

www.tax.org.uk/hmrc-provides-further-guidance-on-iht-dotas

3.2 Tax avoidance scheme mostly fails at FTT

The FTT found that a tax avoidance scheme did not work, but allowed incidental costs of transfer. The details of the scheme are of historic interest only, having since been legislated against.

The taxpayer entered into an avoidance scheme involving gilt strips. He bought some, then granted the option to purchase them to a trust of which he was both settlor and beneficiary. The option was granted for 90% value, and on exercise the trustees acquired them for 10% of the value. The taxpayer claimed an income tax loss of the difference between purchase price and exercise price.

The FTT found for HMRC that this loss was not allowable. The amount allowed as *"payable on the transfer"* was a commercial concept that should be given a wide practical meaning. The transfer consisted of both grant and exercise, so there was no real loss to the taxpayer, other than the incidental costs of disposal. The loss allowed was revised from £1,349,600 to £6,300.

Watts v HMRC [2022] UKFTT 408 (TC)

www.bailii.org/uk/cases/UKFTT/TC/2022/TC08634.html

4. PAYE and employment

4.1 HMRC issuing more loan charge assessments

Discovery assessments are being sent to taxpayers that HMRC believes should have paid the loan charge in 2018/19.

These are taxpayers employed in 2018/19 who HMRC believes received disguised remuneration loans.

The amendment window for HMRC has passed, so these notices state the amount HMRC has assessed as due, with a deadline for payment. Late payment interest will have been applied. Taxpayers have a right of appeal against the assessments.

www.tax.org.uk/loan-charge-discovery-assessments-2018-19

4.2 New HMRC guidance on tax codes

Taxpayers can now use an interactive tool to understand their tax code.

This will offer taxpayers guidance on why their tax code might have changed, and when they might need to take action. PAYE coding notices will still be sent.

www.icaew.com/insights/tax-news/2022/nov-2022/HMRC-launches-interactive-guidance-to-help-explain-tax-codes

5. Tax publications and webinars

5.1 Webinars

The following client webinars are coming up soon.

- 30 November - UK tax and reporting considerations for international private clients
- 30 November - What are my business exit options
- 1 December - Editions by Evelyn Partners - Autumn Statement and the current tax landscape
- 8 December - Retirement from the partnership

6. And finally

6.1 The slow death of the clawback

One of the quirks of the Autumn Statement was that the additional rate of income tax band was reduced to a very unround £125,140. A moment's thought explains it: this is to dovetail with the clawback of annual personal allowance with tops out at that figure. We are therefore left with the odd regime of a band of income taxed at a marginal rate of 40%, the next at 60% and the balance at 45%. It can't last; not because it is unfair, but because eventually the anomaly will really be noticed.

Let's revisit FA 1989 sch 6 para 20(5). It, or at least its provisions, came instantly to mind for us, as regular readers will have anticipated. It introduced the pensions relief cap and was set at a figure so high that it could safely be ignored for all but the highest earners and nobody took much notice. The clever bit was that the number was broadly linked to inflation, not earnings, so the reform has gently nibbled away at pensions relief; we might almost say, by stealth.

This is in contrast to the effect of fiscal drag on the current income tax rates. If, as planned, bands stay static, the £100,000 income trap will really be sprung in the foreseeable future. Except of course it can't be, because it's so absurd seen up close. It will eventually have to go.

That original amount for super earners? £60,000: almost basic rate these days.

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	