Autumn 2017 Budget

Post-budget briefing & tax update

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www.confluencetax.com
+44 (0)1223 847901

Agenda

- International perspective
- Corporation tax
- Personal tax
- SEIS/EIS/VCT
- Government assisted funding
- Cambridge corridor
- Share incentives

International perspective

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Historic split	- Tax evasion	= Illegal
	- Tax avoidance	= Legal
Now	- Tax evasion	= Illegal
	- Aggressive tax avoidance	= Legal but morally unacceptable?
	- Tax avoidance within spirit of the law	= Legal and acceptable

- At an international level, Governments in the G-20 and OECD are focused on legislation to tackle aggressive tax avoidance, primarily through the Base Erosion and Profit Shifting (BEPS) project. The impact has already begun to be felt in the UK patent box.

- The UK Government is seeking international consensus on new measures – eg, affecting social networks/marketplaces.

- It is also bringing in new unilateral measures for withholding tax on digital marketing revenues.

Corporation tax

- Rates
- R&D tax credits
- Patent box
- Loss relief

Corporation tax
– Rates

Year ended 31 March	%
2016	20
2017	19
2018	19
2019	19
2020	17

Corporation tax
– R&D tax credits

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- No change in the law for SME tax credits in this Autumn Budget
- R&D expenditure credits (RDECs) rate increases from 11% to 12% for spend from January 1, 2018 onwards.
- For RDEC cash payments, the 12% is net of corporation tax
  - Effective cash rate now 8.8%
  - From January 1, 2018 9.72%
  - From April 1, 2020 9.96%
- Penalties

Corporation tax
– Patent box

- No change in law in this Autumn Budget 2017.

- The OECD BEPS project resulting in the introduction of new nexus rules. These are a problem if you have:
  - Acquired IP – eg, royalties or acquisition cost
  - Connected party R&D

- A company thatelects in for its accounting period, which includes July 1, 2016, can avoid nexus rules until 2021. But electing in while loss making reduces future patent box deductions.

- The decision to elect for 2016 or later is numbers based. Spreadsheet forecasts are required.

Corporation tax
– Loss relief

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- From April 2017, brought forward losses can only be offset against 50% of current year profit.

- First £5m of current year profit not affected.
- Example:
  - current year profit £11m
  - loss bought forward £10m
  - loss relief available £8m, being £5m plus 50% of £11m-£5m

- Accounting treatment to spread income

- R&D tax credits and patent box deductions are therefore increasingly important.

Personal tax
– Rates and bands

	2017/2018		2018/2019	
Fiscal Year	**Band (£)**	**Rate (%)**	**Band (£)**	**Rate (%)**
Personal allowance	11,500	-	11,850	-
Dividend allowance	5,000	-	2,000	-
Lower rate	0 - 33,500	20	0 – 34,500	20
Higher rate	33,501 – 150,000	40	34,501 – 150,000	40
Additional rate	Over 150,000	45	Over 150,000	45

The ‘gig economy’ continues to be debated for employment law purposes. HMRC have yet to become publicly involved.

Personal tax
– other points

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- Capital gains annual exempt amount
  - From April 6, 2018, the amount of gains that a taxpayer can make in a tax year before being subject to capital gains tax has increased to £11,700 (£11,300 in 2017/18).

- Increase in pension contributions lifetime allowance limit to £1,030,000 (£1 million in 2017/18).

Venture capital schemes

SEIS/EIS/VCT

- **Venture capital schemes (SEIS/EIS & VCT)**
  - New principles-based test (from Finance Bill 2018 Royal Assent) to ensure that the purpose is investment in the company.
    - (i) Company's objective is to grow;
    - (ii) Significant risk of a loss of capital greater than the net return.
  - Will not affect technology and biotechnology based businesses.
- **VCT**
  - No more secured loans permitted (from Finance Bill 2018 Royal Assent)
- **EIS changes (from April 2018)**
  - Annual personal EIS investment limit increases from £1m to £2m for investment in knowledge intensive companies.
  - Annual company EIS investment limit increased from £5m to £10m for knowledge-intensive companies.

Government assisted funding

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- Consultation on a knowledge intensive company EIS fund structure.

- British Business Bank subsidiary to be created to invest £2.5bn as patient capital.

- Pension rules to be reviewed to encourage pension fund investment in higher risk companies.

Cambridge corridor
–update

- Although not a tax update, the Cambridge, Milton Keynes & Oxford Corridor was touched on in the budget. It is envisioned that the corridor can replicate the success of Silicon Valley.

- £5 million has been pledged to help develop plans for the proposed Cambridge South Station (matching contributions from the Cambridgeshire and Peterborough Combined Authority, the Greater Cambridge Partnership, and AstraZeneca). Construction could commence in the early 2020s, subject to affordability.

Share incentives
– EMI share option schemes

- The Enterprise management incentive (EMI) share option scheme remains the most tax efficient method for incentivising employees in the tech/biotech industries.

- The ultimate sale of the shares should be subject to 10% capital gains tax.

- The Organisation for Economic Co-operation and Development (OECD), as part of the BEPS project, has updated its transfer pricing guidance.

    - "Hard-to-value intangibles" need to be valued, taking into account all possible future outcomes – ie, upside as well as downside. This has yet to affect EMI share valuations for IP-based companies.

Share incentives
– Share awards

- If an EMI share option scheme cannot be used, awarding “hurdle” or “growth” shares that have low value is usually a viable alternative. On a sale they attract capital gains tax at the following rates:

Holding of 5% or more	10% rate via entrepreneurs’ relief
Holding of less than 5%	20% rate for higher rate taxpayers
	10% rate for basic rate taxpayers

- The Autumn Budget proposes a consultation on the technical detail of a change to entrepreneurs’ relief:
  - At the point of a diluting investment the individual makes a deemed disposal and reacquisition of their shares at market value
  - When is tax paid? Will market value be more than minimal?