Peat House Newham Road Truro Cornwall TR1 2DP
Telephone: 01872 276116 Telefax: 01872 222172
www.rrl-truro.co.uk

ROBINSON
REED
LAYTON
CHARTERED
ACCOUNTANTS
and
CHARTERED
TAX ADVISERS

Autumn Statement 2011 - An Update

In the Autumn Statement summary prepared on 29 November, we promised to provide you with an update if there were any significant changes announced on 6 December following the publication of Finance Bill 2012 draft clauses and explanatory notes.

HMRC did not disappoint! Well over 1,000 pages of draft legislation and explanatory notes hit the HMRC website. Much of this is very heavy technical material but from within it we have distilled the key issues which update the items covered in the earlier summary.

Personal tax rates and allowances for 2012/13

The figures set out in our earlier summary are now confirmed. The rates of tax remain at 20%, 40% and 50%.

Statutory Residence Test

The proposed changes will not now be introduced until 6 April 2013. Fuller details will be announced at the time of the 2012 Budget.

Changes for non-domiciled individuals

The changes to the remittance basis charge are confirmed.

There are two significant changes to the proposal to allow non-domiciled individuals to remit funds tax free where they are to be invested in a UK business. Firstly, only investment in companies will qualify and not investment in unincorporated vehicles. Secondly, the period of grace which allows a tax charge to be avoided in the year when the investment is realised is increased from 14 days to 45 days.

Foreign currency bank accounts

Bank accounts denominated in a currency other than sterling are chargeable assets for capital gains tax (CGT). There is an exemption where the account is held by an individual and is used to meet personal expenditure abroad. This means that every withdrawal technically constitutes a disposal for CGT purposes and a gain or loss can arise by reference to movements of exchange rates.

It is now proposed that the exemption from CGT will apply to all foreign currency bank accounts held by individuals, trustees of settled property and personal representatives of deceased persons. This exemption will apply for all withdrawals on or after 6 April 2012.

Seed Enterprise Investment Scheme (SEIS)

More information has been provided about this new relief for which the draft legislation runs to 45 pages. The proposals include the following:

- The relief will initially run from 6 April 2012 until 5 April 2017 but may continue after that date
- Income tax relief on a qualifying investment is confirmed at 50%
- Income tax relief will be withdrawn in certain circumstances including a disposal of the shares within three years
- The annual limit of £100,000 investment by an individual is confirmed

- A director may make a qualifying investment but not an employee or an associate of an employee
- An individual may not hold more than 30% of the shares in the company
- The issuing company must have been incorporated within two years of the date on which the qualifying shares are issued
- The company must exist to carry on a qualifying trade
- The gross assets of the company (including the proportion of assets of companies which hold at least 25% of the shares in the issuing company) must not exceed £200,000 immediately before the shares are issued
- The issuing company must not have more than the equivalent of 25 full-time employees immediately before the shares are issued
- The maximum amount which can be raised by a company through SEIS is £150,000 and this is an overall total not an annual limit
- Subject to conditions the disposal of SEIS shares will be exempt from CGT
- Where an individual makes a capital gain in 2012/13 and invests an amount which is at least equal to the gain in qualifying SEIS shares before 6 April 2013 then the gain will be exempt from CGT. If the shares fail to meet the qualifications for SEIS for three years then the exemption will be withdrawn.

Capital allowances in Enterprise Zones

More information is now available in respect of the proposal to give 100% first year allowances on plant and machinery purchased by businesses in certain Enterprise Zone areas.

- The relief will only be available to companies
- The plant must be new and represent an investment not a replacement of existing plant
- The company must be operating within a designated assisted area within one of the specified Enterprise Zones
- The allowance will apply for purchases made from 1 April 2012 up to 31 March 2017
- Certain types of business such as transport undertakings are excluded

Controlled Foreign Companies (CFCs)

All the existing legislation will be repealed and replaced. The key element of the new rules will be that the profits of foreign subsidiaries will be outside the scope of the rules unless they meet specified conditions set out in a ‘gateway’. These conditions set out what is to be treated for the purpose of the regime as profits artificially diverted from the UK.

Patent Box

The concept of a Patent Box has been the subject of consultation by HMRC for the past couple of years and legislation is now being brought forward to apply from 1 April 2013. The essence of the legislation will be to allow companies to elect to have a 10% rate of corporation tax on all profits attributable to qualifying intellectual property (IP). This will cover patents granted in the UK and the European Patent Office as well as supplementary protection certificates, regulatory data protection and plant variety rights. The Patent Box will apply to existing as well as new IP. It will also cover acquired IP provided that the company has further developed the IP or the product which incorporates it.

Company distributions

When a company makes a distribution to its shareholders in the course of a liquidation or winding up the distribution is treated as capital in the hands of the shareholder and CGT is payable in respect of any gain. If the company is a trading company this will qualify for the 10% Entrepreneurs’ Relief rate.

Smaller companies may not wish to go through the cost and administration involved in a formal winding up. In these cases, the company is informally dissolved, commonly referred to as ‘striking off’ and profits/assets are distributed to shareholders. Technically this is not a capital distribution but for many years HMRC have operated an Extra Statutory Concession (ESC) C16 which, subject to certain conditions, allows the CGT treatment to apply. As such this has been a very useful and well used concession.

As part of a rolling programme to remove or legislate all their ESCs, HMRC are about to introduce a statutory replacement for C16. This will apply to distributions made on or after 1 March 2012. It will allow the CGT treatment to apply in informal liquidations but is going to limit the total value of distributions made in such a process to £25,000.

More to come…

As we try to digest this round of changes we now know that Budget Day will be on Wednesday 21 March 2012 with the promise of more changes still to come!