Tolley®CPD

Autumn Budget 2021

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Personal tax (Lecture P1281 – 13.03 minutes)

Tax rates and allowances for 2022/23

As already legislated for, the personal allowance of £12,570 and the basic rate limit of £37,700 are frozen at current levels up to and including 2025/26.

Basic rate, higher rate and additional rate income tax will remain at 20%, 40% and 45% respectively for 2022/23.

The additional rate threshold will remain at £150,000.

The capital gains tax (CGT) annual exempt amount will remain at £12,300 up to and including 2025/26. CGT rates are unchanged for 2022/23.

The main income tax rates and bands apply equally across the UK, except that Scotland has its own rates and rate bands, to be set for 2022/23 by the Scottish Parliament at its Budget on 9 December 2021, and the Welsh Parliament could also modify income tax rates for Welsh taxpayers at its Budget on 20 December 2021.

The starting rate for savings limit (applicable throughout the UK) will remain at £5,000 for 2022/23 and the starting rate itself at 0%. The Personal Savings Allowance also remains unchanged.

Inheritance tax thresholds and rates are unchanged and the nil rate band is fixed until April 2026.

Dividend tax rates

As announced to Parliament by the Prime Minister on 7 September 2021, the three income tax rates applied to dividend income will each increase by 1.25 percentage points for 2022/23 onwards. These rates have effect throughout the UK. The Dividend Allowance, also known as the nil rate band, will remain unchanged at £2,000. The increases are intended to help fund health and social care. HMRC's policy paper notes that they 'will also help to limit the incentive for individuals to set up a company and remunerate themselves via dividends, rather than as wages, to reduce their tax bill'.

The rates are:

	2021/22	2022/23
Dividend ordinary rate (dividends within the basic rate band)	7.5%	8.75%
Dividend upper rate (dividends within the higher rate band)	32.5%	33.75%
Dividend additional rate (dividends above the higher rate limit)	38.1%	39.35%

It is now confirmed that the dividend trust rate will also increase from 38.1% to 39.35%. The main trust rate is unchanged at 45%. It is also confirmed now that the increased dividend upper rate will apply for charging tax under Corporation Tax Act 2010, s 455 on loans to participators in close companies.

National Insurance contributions rates and thresholds

The government will use the September Consumer Prices Index (CPI) figure of 3.1% as the basis for uprating National Insurance limits and thresholds, and the rates of Class 2 and 3 National Insurance contributions, for 2022/23. However, as previously announced the Upper Earnings Limit and Upper Profits Limit will be maintained at 2021/22 levels, in line with the higher rate threshold for income tax.

The government has already legislated for a 1.25% Health and Social Care Levy (HSCL) from 6 April 2023, to fund investment in the NHS and social care. It will apply to all income to which Class 1 (both primary and secondary), Class 4, Class 1A and Class 1B NIC is charged as well as to employment income of those over the State Pension Age. For 2022/23, the relevant NIC rates will be raised by 1.25% for one year except for those over the State Pension Age

Van benefit charge and fuel benefit charges for cars and vans

The van benefit charge and the car and van fuel benefit charges for 2022/23 will increase by the September 2021 Consumer Price Index. The van benefit charge will increase to £3,600; the multiplier for the car fuel benefit will increase to £25,300; and the van fuel benefit charge will increase to £688.

Income tax treatment of Household Support Fund payments

Household Support Fund payments will help vulnerable households with essentials over the coming months, as the country continues its recovery from the COVID-19 pandemic. The government will legislate in Spring 2022 by Statutory Instrument to clarify that payments made through the Fund, and through similar schemes in the devolved administrations, will be exempt from income tax. No income tax will be collected on payments made from October 2021 to the date the legislation takes effect.

ISAs, Junior ISAs and Child Trust Funds

The annual subscription limits for ISAs, Junior ISAs and Child Trust Funds will remain unchanged for 2022/23, so the limit for ISAs will be £20,000 and the limit for Junior ISAs and Child Trust Funds will be £9,000.

Increase in normal minimum pension age

Legislation to be included in Finance Bill 2022 will increase the normal minimum pension age, the earliest age at which most individuals can access their pensions without incurring an unauthorised payments tax charge, from 55 to 57. The increase will have effect from 6 April 2028.

Top-up for low earners in Net Pay Arrangements

The government will introduce a system to make top-up payments directly to lower earners (those with taxable incomes below the personal allowance) who are saving in pension schemes using a Net Pay Arrangement (NPA) from 2024/25 onwards. These top-ups will be paid after the end of the relevant tax year, with the first payments being made in 2025/26 and continuing thereafter. This corrects an anomaly whereby employees contributing to Relief at Source schemes receive a top-up at 20% on their pension contributions, even if they pay no, or a lower rate of, income tax. In contrast, employees contributing to an NPA scheme receive tax relief at their marginal rate, which for low earners is 0%.

Administration (Lecture P1281 – 13.03 minutes)

CGT reporting and payment window

At present, UK residents disposing of UK residential property have to report gains and pay CGT within 30 days after completion. A similar window applies to non-residents disposing of property in the UK. These windows will each increase to 60 days with effect for disposals that complete on or after 27 October 2021.

When mixed-use property is disposed of by UK residents, the legislation will at the same time be amended to clarify that the 60-day window only applies to the residential element of the property gain.

Discovery assessments Lecture

The Upper Tribunal case of HMRC v Wilkes ([2021] UKUT 150 (TCC)) reported on 30 June 2021 established that HMRC cannot raise a discovery assessment to collect tax due as a result of the High Income Child Benefit Charge (HICBC). This is because the HICBC amount is an amount chargeable to income tax and not, as currently required by the discovery legislation, an amount of income which ought to be assessed to income tax. Whilst it is known that HMRC are appealing the decision in Wilkes, legislation will be included in Finance Bill 2022 to put beyond doubt that HMRC can raise valid discovery assessments in these circumstances. This will have immediate and retrospective effect except that it will not apply retrospectively to individuals who submitted an appeal to HMRC on or before 30 June 2021 on the basis of the arguments considered by the Upper Tribunal (including those whose appeal was stood over by the Tribunal pending the final outcome of the litigation).

The legislation will apply equally to tax chargeable where there is insufficient income to cover Gift Aid relief and to certain pensions tax charges, to ensure that HMRC can recover all of these charges via discovery assessments.

The legislation will also make some minor technical changes, but without retrospective effect, to ensure that the requirement for an individual to notify chargeability to income tax in these circumstances operates as intended.

Increasing independent representation on the OTS Board

The government will legislate in Finance Bill 2022 to increase the maximum independent representation on the Office of Tax Simplification (OTS) Board by two members, to a total overall membership of ten. The conclusions of HM Treasury's Review of the OTS will be published in due course.

Introduction of public notice powers for non-duty tariff changes

The government will legislate to amend the Taxation (Cross-border Trade) Act 2018 so that technical updates to tariff legislation, which do not alter the rate of an import duty, will be made by public notice instead of by regulations. This measure will ensure routine technical changes to the UK's tariff schedule will be implemented more quickly. The measure will have effect from the date of Royal Assent to Finance Bill 2022.

Business Taxation (Lecture B1281 – 16.17 minutes)

Residential Property Developer Tax

The government had previously announced a new residential property developer tax as part of its measures to address unsafe cladding on high-rise buildings. It will apply with effect from 1 April 2022 to the relevant profits arising on or after this date of companies undertaking residential property development activities. It was confirmed in the Budget that the tax will be charged at 4% on profits exceeding an annual allowance of £25 million.

Basis period reform

As announced in the summer, the Government is to legislate in Finance Bill 2022 to reform the basis period rules for self-employed individuals and partners. A business's profit or loss for a tax year will be the profit or loss arising in the tax year itself, regardless of the accounting date of the business. On transition, all basis periods will be aligned to the tax year and all outstanding overlap relief given. The draft legislation published on 20 July 2021 will be revised to incorporate suggestions following consultation, including more flexible use of overlap relief in the transitional year and provisions to reduce the impact of transition profits on allowances and benefits. The principal change from the summer announcement though is that the reform will take place one year later than originally planned. The new rules will now come fully into force on 6 April 2024, with 2023/24 being the transitional year.

Capital allowances

The annual investment allowance (AIA) had previously been increased temporarily from £200,000 to £1 million, but this was due to end on 31 December 2021. The increase will now extend for a further 15 months until 31 March 2023 for both income tax and corporation tax. As always when the AIA changes, there will be transitional rules to determine the AIA available for accounting periods spanning the date of change, now 1 April 2023.

Legislation will be included in Finance Bill 2022 to amend the capital allowances legislation to allow for vehicles certified through a new comprehensive vehicle type approval scheme (due to be introduced in 2022) when determining the level of a vehicle's CO_2 emissions. Similar amendments will be made to company car tax and Vehicle Excise Duty (VED). For capital allowances, the legislation will also confirm the applicable CO_2 emissions figure to be used as that arising from the Worldwide Harmonised Light Vehicle Test Procedure. For capital allowances and company car tax, the legislation will take effect following Royal Assent. For VED, it will have effect for licences taken out on or after 3 November 2021.

Research & Development

From April 2023, R&D tax reliefs will be reformed to support modern research methods by expanding qualifying expenditure to include data and cloud costs. These changes will be legislated for in Finance Bill 2023 and take effect from April 2023.

Further details of these changes and next steps for the review will be set out in due course.

Corporate loss relief

Legislation will be introduced (to apply retrospectively for accounting periods beginning on or after 1 January 2019) to ensure that companies adopting IFRS 16 continue to benefit from the exemption from the loss carry forward restriction for companies in financial distress.

These changes will allow companies that are required to adopt IFRS 16 to benefit from an increase in the deductions allowance where they enter into lease renegotiations to avoid insolvency. This will ensure that companies accounting under both the pre-existing accounting standards and IFRS 16 will, in substance, benefit from the same treatment.

Cross-border group relief

For accounting periods ending on or after 27 October 2021 the existing beneficial cross border group relief rules relating to EEA-resident companies are repealed. This is as a result of the UK's exit from the European Union. Group relief rules relating to EEA-resident companies are to be brought into line with those for non-UK companies resident elsewhere in the world so that all non-UK resident companies can only surrender as group relief losses of a UK permanent establishment if it is not possible for the loss to be deducted from non-UK profits of any person for any period.

Transitional arrangements will apply for accounting periods which straddle this date

Diverted profits tax

Two changes relating to the administrative aspects of the diverted profits tax were announced, both of which will have effect from 27 October 2021. First, DPT will now be included as a tax covered by the UK's double taxation treaties and so mutual agreement procedure (MAP) outcomes will be able to be implemented for companies who have sought relief from DPT under this procedure. The interaction between the DPT review period and company tax return enquiries will also be rationalised. This will be achieved by extending the time period in which a company tax return can be amended where there is a DPT review from the first 12 months of the DPT review period to the whole of the review period, other than the final 30 days. It will also not be possible for a closure notice for an enquiry into a company tax return to be given until the end of the DPT review period.

Real Estate Investment Trusts (REITs)

From 1 April 2022, changes will be introduced in relation to the tax rules applying to REITs including some of the conditions that determine whether a company qualifies to be a UK REIT. The underlying objective of this measure is to alleviate certain constraints and administrative burdens to enhance the attractiveness of the UK REIT regime for real estate investment.

Key changes include:

- removal of the requirement for REIT shares to be admitted to trading on a recognised stock exchange in cases where institutional investors hold at least 70% of the ordinary share capital in the REIT;

- amending the rules requiring that at least 75% of a REIT's profits and assets relate to property rental business (the 'balance of business test') to disregard non-rental profits arising because a REIT has to comply with certain planning obligations, and to ensure the items currently specified as excluded from the profits part of the test are disregarded in all parts of the test;

- introduction of a new simplified balance of business test so that, if group accounts for a period show that property rental business profits and assets comprise at least 80% of group totals, a REIT will not have to prepare the additional statements which would be required to meet the full test.

Creative Industries

A range of measures were announced in relation to the three "cultural" tax reliefs (Theatre Tax Relief (TTR), Orchestra Tax Relief (OTR), and Museums and Galleries Exhibition Tax Relief (MGETR)).

From 27 October 2021 there is a temporary increase in the rate of the three cultural tax reliefs, as follows:

- TTR and MGETR - rates will increase to 45% (for non-touring productions) and 50% (for touring productions) respectively. From 1 April 2023, the rates will be 30% and 35%, and rates will return to 20% and 25% on 1 April 2024;

- OTR - rates will increase to 50% for expenditure taking place from 27 October 2021, reducing to 35% from 1 April 2023, and returning to 25% from 1 April 2024.

In addition, other provisions confirm that legislation will be introduced such that:

- From the date of Royal Assent to the Finance Bill 2022, the MGETR relief will be available until 31 March 2024 - this relief was due to expire in March 2022;

- From 1 April 2022, film productions qualifying for Film Tax Relief (FTR) that change during production to instead meet the criteria for High-End Television Tax Relief (HETV) will be able to continue claiming FTR without losing their right to access tax relief, which will benefit film productions in the longer term.

Bank surcharge

For accounting periods beginning on or after 1 April 2023, the bank surcharge rate will be reduced to 3% (from 8%) and the surcharge allowance will be increased to £100 million (from £25 million). Where a company's accounting period straddles 1 April 2023 the period will be split on a time apportionment basis for the purposes of the allowance and the reduced rate.

A review of the surcharge was announced at Spring Budget 2021. When this rate change is taken alongside the increase in the headline rate of corporation tax from 19% to 25% from April 2023, banks will be taxed at a combined rate of 28% on their profit.

Asset Holding Companies (AHCs)

From 1 April 2022 a new tax regime for qualifying AHCs and some of the payments they make will be introduced. The regime will apply to certain AHCs that are used in a range of collective and institutional investment structures to hold investment assets. It will also apply to investment funds, institutions and individuals that invest in these structures.

The broad intention behind this regime is to ensure UK competitiveness as a location for asset management and investment funds. It operates so that investors are taxed broadly as if they had invested in the underlying assets and the intermediate holding companies pay no more tax than is proportionate to the activities they perform.

The regime will exempt from tax:

- gains on share disposals & overseas, property disposals;
- profits of an overseas property business of a qualifying AHC, where those profits are subject to tax in an overseas jurisdiction.

In addition the following provisions will be modified:

- the late paid interest rules so that, in certain situations, interest payments are relieved in the qualifying AHC on the accruals basis rather than the paid basis;
- the deeply discounted securities rules for corporates so that, in certain situations, the discount arising on any such security issued by the qualifying AHC is relieved on the accruals basis rather than the paid basis;
- the transfer pricing exemption for small and medium-sized enterprises and adjustment of the participation condition to ensure the transfer pricing rules apply appropriately in relation to a qualifying AHC;
- the deduction regime for interest payments so that deductions for certain interest payments that would usually be disallowed as distributions (along with necessary consequential changes to the hybrids rules) are allowed and in certain circumstances the obligation to deduct a sum representing Income Tax at the basic rate on payments of interest is disapplied;
- the buy back of share capital rules so that when a qualifying AHC repurchases its share capital from an individual, premiums paid will be allowed to be treated as capital rather than income distributions. In addition repurchases by a qualifying AHC of share and loan capital which it previously issued will be exempt from Stamp Duty and Stamp Duty Reserve Tax (SDRT);
- the remittance regime so that certain amounts paid to qualifying remittance basis users by a qualifying AHC are able to be treated as non-UK source, reflecting the underlying mix of UK and overseas income and gains;

- CGT and accounting provisions in relation to entry and exit from the regime, including the rebasing of certain assets and the creation of a new accounting period.

The regime will also include administrative provisions and provisions to guard against potential for abuse or avoidance.

VAT and indirect taxes

Implementation of VAT rules in free zones

This measure, which is to take effect from 3 November 2021, will affect VAT registered businesses authorised to operate in the customs site (free zone) of a Freeport. The main VAT benefit of operating in a free zone is that businesses selling goods within free zones can zero-rate their supplies, and services carried out on goods in those zones may also be zero-rated subject to conditions, which provides a cash flow advantage. This measure will ensure that where goods leave a free zone and there is no qualifying onward supply of the goods, or where there is a breach of the rules of the free zone customs procedure, VAT will be due.

VAT exemption for dental prostheses imports

This measure, which is to apply retrospectively from 1 January 2021, will affect registered dentists and other dental care professionals:

- importing dental prostheses into the United Kingdom;
- moving or supplying dental prostheses between Great Britain and Northern Ireland.

The measure is intended to remedy an unintended consequence of the Northern Ireland Protocol and is being retrospectively applied to ensure there is no gap in the fiscal position that existed prior to the end of the transition period. It introduces a VAT exemption for the importation into the United Kingdom of dental prostheses and ensures that supplies of dental prostheses by registered dentists and other dental care professionals continue to be exempt between Great Britain and Northern Ireland.

Businesses trading in second-hand motor vehicles in Northern Ireland

Under the Northern Ireland Protocol, motor vehicle dealers in Northern Ireland may not use the VAT margin scheme for second-hand vehicles when vehicles are purchased in Great Britain and must therefore account for VAT on the full selling price. Two measures have been announced with the intention of remedying changes to the VAT treatment of Northern Ireland businesses that deal in second-hand vehicles sourced in Great Britain.

One of the measures is described as an interim arrangement and is intended to provide for the use of the VAT margin scheme for sales in Northern Ireland of motor vehicles sourced in Great Britain.

The other measure is intended to enable the introduction of a second-hand motor vehicle export refund scheme to allow businesses that buy used motor vehicles in Great Britain that are moved for resale in Northern Ireland or the European Union to claim a refund equivalent to the VAT on the price paid. This should put businesses in a similar financial position to having access to the VAT margin scheme for these second-hand vehicles.

VAT treatment of fund management fees

The Autumn Budget and Spending Review 2021 included an announcement that there will be a consultation on options to simplify the VAT treatment of fund management fees in the coming months.

Air passenger duty (Lecture P1281 – 13.03 minutes)

The following changes to air passenger duty are to take effect from 1 April 2023:

- a new domestic band for air passenger duty covering flights within the UK;

- a new ultra long-haul band, covering destinations with capitals located more than 5,500 miles from London.

The rates the for the new domestic band will be £6.50 for those travelling in economy class, £13 for those travelling in all other classes, and £78 for those travelling on aircraft with an authorised take-off weight of 20 tonnes or more with fewer than 19 seats.

The rates for the new ultra long-haul band will be £91 for those travelling in economy class, £200 for those travelling in all other classes, and £601 for those travelling on aircraft with an authorised take-off weight of 20 tonnes or more with fewer than 19 seats.

Other indirect taxes

Landfill tax

The standard and lower rates of Landfill Tax are to be increased in accordance with the retail price index with effect from 1 April 2022. The value of the Landfill Communities Fund for 2022 to 2023 will be set at £30.8 million, with the cap on contributions by landfill operators remaining at 5.3% of their landfill tax liability.

Gaming duty

The gross gaming yield bandings for calculating gaming duty are to be increased in accordance with the retail price index for accounting periods beginning after 31 March 2022.

Rebated diesel and biofuels

Amendments are to be made to the legislation that restricts the use of rebated red diesel and rebated biofuels from 1 April 2022. The changes will affect the provisions relating to certain vehicles, machines and appliances, restrictions on the use of red diesel and rebated biofuels, and travelling fairs and circuses. There are also to be changes to the circumstances in which the use of red diesel and rebated biofuels will be permitted, including provisions aimed at the transition to the new rules.

Vehicle excise duty rates for cars, vans, motorcycles

Vehicle excise duty rates for cars, vans, motorcycles, and motorcycle trade licences are to be increased in accordance with the retail price index with effect from 1 April 2022.

Vehicle excise duty and levy rates for heavy goods vehicles

The government will continue to freeze vehicle excise duty for heavy goods vehicles for 2022 to 2023 and will continue to suspend the levy for heavy goods vehicles for another twelve months from 1 August 2022.

Temporary extension to road haulage cabotage

A legislative change is to take affect from 28 October 2021 to allow, until 30 April 2022, unlimited cabotage movements of heavy goods vehicles within Great Britain for up to fourteen days after arriving in the United Kingdom on a laden international journey, without these operators needing to pay vehicle excise duty.

Tobacco duty

Increases in tobacco duty rates are to take effect from 6pm on 27 October 2021. Tougher sanctions are to be introduced to tackle tobacco duty evasion with enforcement by HMRC and Trading Standards.

Alcohol duty

Alcohol duty rates will be frozen and it is intended that alcohol duty will be reformed.

The excise wrongdoing penalty regime

The scope of the excise wrongdoing penalty regime is to be extended so it will cover breaches relating to excise goods in the free zone customs special procedure and the authorised use procedure.

Plastic packaging tax

Amendments are to be made to the plastic packaging tax legislation to ensure that the tax operates as intended, that the UK complies with international agreements, and that HMRC has the appropriate framework to administer the tax.

Insurance premium tax

Legislation is to be introduced setting out the criteria for determining the location of risk for insurance premium tax to provide clarity and ensure that risks located outside the UK remain exempt from insurance premium tax in the UK.

Carbon Price Support rate

The Carbon Price Support rate per tonne of carbon dioxide emitted will be £18 for 2023 to 2024, further extending the rate freeze introduced from 1 April 2016.

Aggregates levy rate

The aggregates levy rate is to be frozen in 2022 to 2023.

Fuel duty rates

Fuel duty rates will remain frozen for 2022 to 2023.