

# Tolley®CPD

## 2023 Spring Budget

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## Introduction

Chancellor Jeremy Hunt delivered his 2023 Spring Budget on 15 March 2023. The key announcements are summarised in the document.

## Personal tax

### Starting rate for savings limit

The starting rate for savings limit remains £5,000 for the 2023/24 tax year. The rate of income tax that applies to this income is 0%. The starting rate for savings applies only where taxable non-savings non-dividend income (ie after personal allowances) is less than the starting rate for savings limit.

### Individual savings account

The following annual subscription limits remain unchanged for 2023/24:

1. individual savings account (ISA) — £20,000
2. junior ISA — £9,000
3. child trust fund — £9,000

From April 2024, only financial institutions with a UK presence will be able to manage ISA and child trust funds.

### Taxation of new devolved social security benefits

The taxation of social security benefits is complex with some benefits, such as carer's allowance and state pension being taxable, while others, such as child benefit are not. The position has become more complex where policy on welfare is a devolved matter, but taxation of benefits is a reserved power at UK level. A new power to confirm the tax status of devolved welfare and top-up payments by tertiary legislation will be introduced in Finance (No 2) Bill 2023. The new measure will bring greater certainty as the tax status of new welfare payments can be decided when they are introduced and not be subject to the normal UK parliamentary timetable.

### Payments from Welsh Government's Jobs Growth Wales Plus scheme

Under a strand of the Welsh Government's Jobs Growth Wales Plus scheme, young people can obtain support to develop skills and work experience to help them into work. One strand of the scheme pay a training allowance to those who meet certain conditions.

The Government will legislate in Finance (No 2) Bill 2023 to exempt from tax payments of the training allowance. This measure will have retrospective effect from 1 April 2022, when the scheme was introduced.

## **Digitalising relief at source**

The Government announced that it intends to legislate to digitise the processes for Relief at Source (RAS) for pensions. This is intended to improve the experience for pension scheme administrators and reduce errors. Draft legislation is expected to be published this summer.

## **Consultation on occupational health tax incentives**

The Government announced that it will consult on incentivising employer investment in, and provision of, occupational health services through the tax system. This may include an exemption for tax and NIC for the benefits in kind legislation in relation to occupational health services or a potential super-deduction style relief for businesses who provide services to their employees.

## **Pension changes**

### *Annual allowance*

The annual allowance will be increased from £40,000 per tax year to £60,000 per tax year. The annual allowance effectively limits the income tax relief on pension contributions made by, or in respect of, an individual in the tax year, and where the pension input amount exceeds the annual allowance an income tax charge applies.

Currently, the amount of the annual allowance is tapered for individuals with adjusted income of over £240,000. The amount of the annual allowance is reduced by £1 for every £2 of the excess over £240,000 down to a minimum of £4,000. The adjusted income threshold is to be increased to £260,000 and the minimum annual allowance is to be increased to £10,000.

These changes will apply from 6 April 2023 onwards.

### *Money purchase annual allowance*

Like the annual allowance discussed above, the money purchase annual allowance limits the income tax relief on pension contributions made by, or in respect of, an individual in the tax year by applying an income tax charge to the excess contributions.

The money purchase annual allowance applies to individuals who have taken pension benefits from defined contribution or money purchase arrangements and exists to prevent individuals from recycling pension benefits into further tax-relieved pension contributions.

The money purchase annual allowance is increased from £4,000 to £10,000. This takes the money purchase annual allowance back to its pre-6 April 2017 level.

The change will apply from 6 April 2023 onwards.

### *Pension lifetime allowance*

The lifetime allowance is to be abolished. Currently, the lifetime allowance limits the total tax-relieved value that can be accumulated into registered pension schemes by levying an income tax charge on pension benefits in excess of the lifetime allowance. The income tax charge is 55% if the excess is taken as a lump sum and 25% if the excess is retained in the pension fund to pay pension benefits.

A number of individuals currently hold various lifetime allowance protections: enhanced protection, primary protection, fixed protection, individual protection. This is because when the lifetime allowance was first introduced and later reduced on a number of occasions, individuals with pension pots in excess of the allowance or those who expected their pension pots to exceed the allowance at retirement could protect their funds. Those with protections in place are usually not able to contribute to a pension scheme and making a contribution (even by accident due to auto enrolment) may invalidate that protection.

Although in theory those with lifetime allowance protections may be able to contribute to a pension once the lifetime allowance is abolished, it is recommended that individuals wait until the relevant legislation is published (likely to be in a future Finance Bill) to ensure that there are no unintended consequences from the contribution. For example, making a pension contribution on or after 6 April 2023 may trigger the application of the pension commencement lump sum standard upper monetary limit to the individual (see below).

The lifetime allowance charge will be removed from 6 April 2023 onwards, although the technical amendments to the legislation to abolish the lifetime allowance will be made in a future Finance Bill. This is presumably due to the complexity of the existing legislation.

### *Pension commencement lump sum*

When an individual becomes entitled to pension benefits from their pension scheme up to 25% of the fund can be taken as a pension commencement lump sum.

Although this is also referred to as a tax-free lump sum, effectively it is only free of income tax where the amount taken is up to 25% of the lifetime allowance. Where the lifetime allowance is exceeded, any excess taken as a lump sum suffers a 55% income tax charge (see above).

Although the lifetime allowance is to be effectively abolished from 6 April 2023, the Government does not want individuals to be able to take 25% of their entire pension pot tax-free. Therefore, a pension commencement lump sum upper monetary cap of £268,275 (which is 25% of the 2022/23 standard lifetime allowance) will apply to limit the amount that can be taken tax-free. Those with lifetime allowance protections (discussed above) will have a higher upper monetary cap.

The policy paper notes that changes will also be made to the serious ill-health lump sum, defined benefits lump sum death benefit and uncrystallised funds lump sum death benefit, but no details are provided.

These changes will apply from 6 April 2023 onwards.

### *Amendment to taxation of collective money purchase schemes*

As announced on 20 July 2022, Finance (No 2) Bill 2023 will correct the law to ensure that payments from collective money purchase schemes made in the process of winding up are authorised payments for tax purposes. This was the original intention when collective money purchase schemes were introduced by Pension Scheme Act 2021, but the original legislation did not achieve this. It was originally thought that these changes would have effect from 6 April 2023, but Spring Budget 2023 states that the amendments will apply from the date of Royal Assent.

### *Relief relating to net pay arrangements*

As announced on 20 July 2022, Finance (No 2) Bill 2023 will implement a system to make top-up payments directly to lower earners (ie those with taxable income below the personal allowance) who are saving in pension schemes using a net pay arrangement from 2024/25 onwards.

## **Share options**

### *Enterprise Management Initiative (EMI) administrative easements*

Following consultation, two EMI scheme administrative requirements were removed in the Spring Budget 2023, with the changes effective from 6 April 2023. Firstly, the company granting EMI options will no longer be required to set out any restrictions applicable to the shares, within the option agreement itself. Secondly, the requirement for the company to declare that the employee meets the working time requirement, when issuing an EMI option agreement, is also removed. The working time requirement remains in place, and these measures simply relax the statement formalities required when the option itself is issued. Legislation will be included in Finance (No 2) Bill 2023.

In a further relaxation, intended to be introduced from 6 April 2024, companies will be expected to notify HMRC of an EMI option by 6 July following the end of the tax year, rather than the current stricter '92 days following grant' notification deadline.

### *Changes to the Company Share Option Plan rules*

Spring Budget 2023 confirmed that the maximum value of CSOP options which may be issued by qualifying companies will be increased from £30,000 to £60,000.

The formal requirement for CSOP option shares to be 'worth having' will be removed, better aligning the scheme rules with those applying to Enterprise Management Initiative (EMI) shares. Both changes will be introduced from 6 April 2023, by Finance (No 2) Bill 2023.

## **Qualifying Care Relief increase**

Qualifying care relief provides an exemption for income from foster-care and qualifying shared lives care. Relief is given by means of an annual exempt amount per household and weekly amounts for each child or adult cared for. Rates have not been upgraded since introduction and have been eroded by inflation.



From 6 April 2023, the annual fixed amount will increase from £10,000 to £18,140, and the weekly amounts from £200 to £375 for children under 11, and from £250 to £450 for children over 11 and adults.

From 2024/25 these amounts will be increased by the Consumer Price Index. These increases in allowances will mean that foster carers and adult placement carers should normally have no tax or national insurance liability on their income from caring.

## **Community Investment Tax Relief and Social Investment Tax Relief**

### *Community Investment Tax Relief*

Community investment tax relief ('CITR') is a tax advantaged scheme which aims to promote investment in businesses and social enterprises in disadvantaged areas. The scheme works via Community development finance institutions ('CDFIs') which are financial intermediaries, such as social banks and community loan funds, that provide funds to certain businesses and social and community enterprises in disadvantaged areas.

The Government will legislate in Spring 2023 by Statutory Instrument to expand the limits that apply to the funds that can be raised and deployed by accredited Community Development Finance Institutions using the CITR scheme.

### *Social Investment Tax Relief*

Following a period of consultation, it has been confirmed that Social investment tax relief (SITR), which is designed to support social enterprises seeking external finance, will close to new investment from 5 April 2023.

SITR was subject to a sunset clause and had been granted a two-year extension to 5 April 2023 but this will not be extended further.

## **Charitable Reliefs to UK Charities and CASCs**

The Government will legislate in Finance (No 2) Bill 2023 to restrict UK charity tax reliefs and exemptions to UK charities and Community Amateur Sports Clubs (CASCs). This measure will amend the tax definition of a charity, set out in FA 2010, Sch 6, or CASCs, set out in section CTA 2010, s 661A. Currently charities or CASCs located in the UK, EU or the EEA could qualify for charitable tax reliefs in the UK.

It will take effect from 15 March 2023 for any charity or CASC that has not previously been accepted for charitable tax reliefs. For non-UK charities and CASCs that have previously been accepted for charitable tax reliefs at 15 March 2023 there will be a transitional period until April 2024. From April 2024, all non-UK charities and CASCs will no longer be eligible to claim UK charitable tax reliefs.

From 15 March 2023, any new applications by charities or CASCs to be recognised by, or registered with, HMRC will need to comply with the new tax definition.

## Short Term Business Visitor (STBV) rules

The Chancellor has indicated that additional leeway will be introduced to HMRC's Short Term Business Visitor (STBV) rules. These agreements allow for individuals to remain within their home country's tax system when undertaking business visits to the UK on a short-term basis. Whilst full details have yet to be provided, it is understood the range of permitted business activities, within which it is accepted no UK tax liabilities arise, are to be extended.

The Spring Budget 2023 statement indicates the additional rules will be introduced in Autumn 2023. As STBV are in the nature of HMRC 'easements' applied to the strict employer obligations, it may be the changes require little or no formal statutory amendment.

## Agent access to payroll benefits

The Chancellor has indicated that the Government will introduce IT systems to enable tax agents to payroll benefits in kind on behalf of employers. An HMRC payroll benefits agreement is a process operated in addition to standard PAYE tax deduction rules, which ensures that employees pay their taxes on a real time basis (as opposed to the P11D method which often sees employee taxes settled in arrears). It also removes the employer's P11D reporting obligation. No timescale was confirmed. However the new systems, when introduced, would see agents, as well as employers, able to file payrolled benefits returns directly.

## Homes for Ukraine

### *Sponsorship payments*

The Government confirmed it will legislate in Finance (No 2) Bill 2023 to exempt the Homes for Ukraine Sponsorship Payment (made by local authorities to sponsors under the Homes for Ukraine scheme) from income tax and corporation tax. The measure will have retrospective effect from 14 March 2022 when the sponsorship scheme was launched.

### *ATED and SDLT*

Temporary relief will be introduced from both ATED and the 15% rate of SDLT where a non-natural person makes a dwelling available for occupation by refugees under the Homes for Ukraine sponsorship scheme. These will apply from 1 April 2022 and 31 March 2022 respectively.

FA 2013 will be amended such that a non-natural person making a dwelling available to a Ukrainian refugee under the sponsorship scheme, and which would otherwise be relieved from ATED on the basis that it is running a property rental business, will be treated as if it were continuing to do so. Legislation will also be introduced to ensure that a non-natural person previously chargeable to ATED can claim relief from the charge on the days on which the property is actually occupied by a Ukrainian refugee as if it were running a property rental business.

Similar amendments will also be made to provisions in FA 2013 concerning property developer relief and property traders relief so that these reliefs are not lost when dwellings are made available to Ukrainian refugees under the sponsorship scheme.

In addition, amendments will be made to FA 2003 to ensure that registered providers of social housing acquiring property to accommodate those fleeing conflict with the assistance of specific local government funding qualify for the registered social landlord exemption and therefore do not suffer SDLT. This aspect is not limited to Ukrainian refugees and will apply from 15 March 2023.

## Capital taxes

### Capital gains assessment time period

The Government will introduce changes to the rules for capital assets disposed of under an unconditional contract which, where applicable, will amend the operation of the period in which taxpayers must notify HMRC that they are chargeable to CGT or corporation tax, the time limits for assessments in relation to chargeable gains and the time limits for claiming allowable losses.

The amendments have been introduced to close a perceived avoidance loophole where there is a delay between an unconditional contract being entered into and an asset being conveyed or transferred.

The rules will apply for CGT purposes where the conveyance or transfer of an asset takes place more than six months after the end of the tax year in which the disposal is treated as taking place. For corporation tax, the time limit is one year after the end of the accounting period in which the disposal occurs.

Where the rules apply, it will mean that the relevant notification periods, assessment and claim time limits operate by reference to the tax year or accounting period when the asset is conveyed or transferred rather than the tax year or period in which the contract for the disposal was made.

The measure is designed to allow HMRC additional time to assess the tax due. It should also allow more time for taxpayers to claim any allowable losses arising from the disposal.

These changes will apply to assets disposed of and acquired under an unconditional contract entered into on or after 1 April 2023 for companies and 6 April 2023 for individuals, trustees and personal representatives of estates.

### Carried interest

Broadly speaking, carried interest is the performance-related share of profits that investment fund managers receive from their interest in the fund's assets. Provided certain conditions are met, carried interest is subject to capital gains tax (although at the higher rates of 18% or 28% depending on level of the individual's taxable income) rather than income tax.

Currently, a chargeable gain accrues to the fund manager when the carried interest arises. However, it has come to the Government's attention that this can cause practical problems where the gain is taxable in more than one country and the fund manager needs to claim double tax relief. This is because different countries have different tax year ends.

As such, legislation will be introduced in Finance (No 2) Bill 2023 to enable the fund manager to elect for their carried interest to be taxed on the accruals basis rather than on the receipts basis. Once made the election will be irrevocable.

This change is to apply retrospectively from 6 April 2022 onwards.

## **Capital Gains Tax: share or securities exchange**

The Government has confirmed that an anti-avoidance rule under which shares in a non-UK company held by an individual are treated as located in the UK where they were acquired in exchange for shares in a UK company will be included in the Finance (No 2) Bill 2023.

Minor changes will be made to the original draft legislation to ensure that the rule continues to apply in situations where there are further exchanges of securities.

## **Transfer of assets between spouses and civil partners separating**

The changes that extend the period in which no gain/no loss transfers can be made between separating and divorcing couples and allow for principal private resident relief to be claimed by a spouse or partner who has left the family home, will be legislated in Finance (No 2) Bill 2023. They will apply to disposals on or after 6 April 2023.

## **Simplification for trusts and estates**

HMRC consulted on formalising an existing interim concession that removes trustees and personal representatives from income tax where the only source of income is savings interest and the tax liability is less than £100.

It was announced at Spring Budget 2023 that from 2024/25 trusts and estates with income up to £500 will not pay tax on that income as it arises. If income exceeds £500, income tax will be due on the full amount of income. The legislation will be introduced in Finance (No 2) Bill 2023.

Where a settlor has a number of trusts, the £500 limit will be proportionately reduced for accumulation and discretionary trusts by the total number of the current trusts to a minimum of £100. Interest in possession trusts, settlor-interested trusts, vulnerable beneficiary trusts and heritage maintenance trusts will not be taken into account.

The measure also:

1. removes the default basic rate and dividend ordinary rate of tax that applies to the first £1,000 slice of discretionary trust income;
2. provides that beneficiaries of UK estates do not pay tax on income distributed to them that was within the £500 limit for the personal representatives;
3. makes technical amendments to ensure beneficiaries of estates that their tax credits and savings allowance continue to operate correctly.

## **Geographical scope of APR and woodlands relief from inheritance tax**

The Government will introduce legislation in a future Finance Bill to restrict the scope of agricultural property relief and woodlands relief to property in the UK. Property located in the European Economic Area (EEA), the Channel Islands and the Isle of Man will be treated the same as other property located outside the UK.

The changes will take effect from 6 April 2024.

## Tax Administration

### OECD MDR and AEOI powers consolidation

The Government will legislate in Finance (No 2) Bill 2023 to consolidate five powers that allow AEOI regulations to be laid. AEOI regulations enable the automatic exchange of tax information between jurisdictions to support compliance, in line with international agreements. These powers cover the MDR, the Common Reporting Standard (CRS), Foreign Account Tax Compliance Act (FATCA), Country by Country Reporting (CbCR) and Reporting Rules for Digital Platforms (DP) regulations. The previous powers will be repealed once this consolidation has happened. At the same time there will be a technical amendment to the power that allows MDR regulations to be laid so that these regulations work as intended. This measure will take effect from Royal Assent of Finance (No 2) Bill 2023.

### Criminal sentences for tax fraud

As part of the Government's ongoing efforts to combat tax evasion, the maximum sentence for the most egregious forms of tax fraud will double from seven to 14 years.

### HMRC and financial sanctions

Legislation will be included in the Finance (No 2) Bill 2023 to clarify HMRC's functions in relation to individuals and organisations subject to financial sanctions under the Sanctions and Anti-Money Laundering Act 2018 and entities owned or controlled by them. The intention is that HMRC will be able to withhold payments and repayments to such individuals, organisations and entities despite any statutory payment obligations. The legislation will apply to payment functions which have not been discharged before 15 March 2023.

### Other tax administration measures

The following measures were also announced:

**Renewal of certain licences in Scotland and Northern Ireland** — the Government confirmed it will legislate in Finance (No 2) Bill 2023 to make the renewal of certain licences in Scotland and Northern Ireland conditional on applicants completing checks that confirm they are appropriately registered for tax. However, the commencement date has been delayed from April 2023 to 2 October 2023.

**Assignments of income tax repayments** — it was confirmed that the Government will render void assignments of income tax repayments. This will be legislated for in Finance (No 2) Bill 2023 and ensure taxpayers can no longer legally assign their income tax repayments to a third party such as an agent. These changes apply UK-wide and mean that assignments of income tax repayments received by HMRC on or after 15 March 2023 will be legally invalid.

## Business Taxation

### Corporation tax rates from 1 April 2024

From 1 April 2023, the rate of corporation tax depends on the level of augmented profits of a company and is based on a comparison of the company's augmented profits against the corporation tax thresholds of £50,000 (the lower limit) and £250,000 (the upper limit). The rate of corporation tax is 19% if profits do not exceed the lower limit (known as the small profits rate) and 25% where profits are greater than the upper limit. Where a company's profits fall between the lower and upper limits, it will pay tax at the main rate of 25% but be entitled to marginal relief. The Government has confirmed that the same main rate and same profits rate will apply for the financial year beginning 1 April 2024.

### Research and development

The Government had previously published draft legislation providing for a number of changes to the research and development (R&D) tax reliefs which are due to apply to accounting periods beginning on or after 1 April 2023.

The draft legislation included the following major changes:

1. two new categories of expenditure qualifying for relief will be introduced. These are the costs of data licenses and cloud computing services. A data licence is defined as one to access and use a collection of data services. Cloud computing services include providing access to, and maintenance of, remote data storage, operating systems, software platforms and hardware facilities. Amendments are also to be made to the patent box legislation, which applies the R&D definitions of qualifying expenditure in its calculations, to include data and cloud computing costs.
2. the exclusion of pure mathematics from relief will be removed. This measure is to be introduced by statutory instrument.
3. relief for subcontracted work and externally provided workers will be limited to focus on UK activity. Expenditure must either be 'UK expenditure' on R&D in the UK or 'qualifying overseas expenditure' undertaken outside the UK because the necessary conditions are not present in the UK due to geographical, environmental or social factors (for example deep ocean research) or due to legal or regulatory requirements (for example clinical trials).
4. all claims to R&D reliefs will have to be made digitally. Claims will have to include certain additional information to be valid, including a breakdown of costs across the qualifying categories and a description of the R&D. A claim will have to be endorsed by a named senior company officer and will have to include details of any agent advising on the claim. Additionally, companies will be required to inform HMRC in advance that they intend to make a claim within six months of the end of the accounting period to which it relates by making an online 'claim notification'. There will be an exception to the latter requirement for companies which have claimed in any of the three preceding accounting periods. Secondary legislation will detail the information to be included with a claim or a claim notification.

In addition to the major changes outlined above, the draft legislation also includes eight minor changes. These include measures to deal with various anomalies relating to the making of claims and the administration of the schemes.

As part of Spring Budget 2023, the Government confirmed that the reforms previously announced will be implemented as part of Finance (No 2) Bill 2023, but with the following changes:

1. the proposed restrictions on certain overseas expenditure will not apply from 1 April 2023, but will instead be postponed and take effect from 1 April 2024. This is designed to allow the Government additional time to consider the interaction between this restriction and the design of a new single R&D scheme, which has been subject to consultation recently. The Government announced that it will publish draft legislation on a merged scheme for technical consultation in summer 2023, along with a summary of responses to the consultation.
2. the requirement to provide additional information (such as the breakdown of costs and a description of the R&D as part of the claim) will need to be made using a compulsory additional information form. This requirement will apply to any claim made on or after 1 August 2023

Apart from these two changes, all other measures will have effect for accounting periods beginning on or after 1 April 2023, as previously confirmed.

In addition to these changes, the Government also announced that from 1 April 2023, an increased rate for the repayable tax credit for loss-making R&D intensive small and medium size enterprises (SMEs) of 14.5% (rather than 10%) will apply. To qualify, at least 40% of the SME's total expenditure must relate to R&D. The change will be legislated for in Finance Bill 2024 and eligible companies will be able to claim once the legislation is in place. This effectively means that eligible companies can claim the current 10% rate that applies from 1 April 2023 and submit an amended claim once the legislation is in place or delay submission of their claim. Relief will be claimed as normal on the return, but on the additional information form (see above) companies should indicate whether or not they are claiming as R&D intensive companies.

## **Capital allowances**

New temporary first-year allowances (FYAs) for companies only will be introduced in the Finance (No 2) Bill 2023. The FYAs will apply to expenditure on new and unused plant and machinery incurred on or after 1 April 2023 and before 1 April 2026.

For main rate expenditure (which would otherwise qualify for a writing-down allowance at the main rate) the FYA will be 100%, so that the expenditure is 'fully expensed'. For special rate expenditure, the FYA will be 50%. The existing exclusions from FYAs will apply, notably for cars and for plant and machinery for leasing. There will also be an anti-avoidance rule to deal with contrived or abnormal arrangements or those lacking a genuine commercial purpose.

Special rules will apply on disposal of assets which have benefitted from the FYA. An immediate balancing charge will be made, equal to 100% of the disposal value for main rate assets and 50% of the disposal value for special rate assets.



The new FYAs replace the existing super-deduction and special rate allowance which expire on 31 March 2023.

The Government also confirmed two further capital allowances measures to be included in the Finance (No 2) Bill 2023 which had been previously announced, as follows:

1. the annual investment allowance limit of £1 million will be made permanent;
2. the 100% FYA for expenditure on electric vehicle charging points which was originally intended to end in 2023 will be extended so that the allowance will be available for expenditure by companies before 1 April 2025 and by non-corporate taxpayers before 6 April 2025

## **Expansion of the Seed Enterprise Investment Scheme**

From 6 April 2023, the amount which a company can raise through Seed Enterprise Investment Scheme (SEIS) will increase from £150,000 to £250,000.

The base of the scheme will also be broadened with the gross asset limit increased from £200,000 to £350,000 and the age limit on a qualifying trade extended from two to three years. The objective of SEIS is to help smaller, riskier, early stage UK companies attract investment, where they may face barriers to raising external finance. Scheme rules are complex, but where conditions are met, individual investors can access significant income tax and capital gains relief including income tax relief of up to 50% on their investment.

The annual investment limit for individual investors is also increased from £100,000 to £200,000. Scheme rules permit unused annual amounts to be carried back to the previous year, but this is subject to the cap applying to that year.

## **Creative industries reliefs**

Legislation will be included in the Finance (No 2) Bill 2023 to extend the temporary increases to the rates of tax credits under the theatre tax relief, orchestra tax relief and museums and galleries exhibitions tax relief schemes. The increased rates were introduced from 27 October 2021 and were originally intended to be withdrawn from 1 April 2024, with an intermediate rate applying from 1 April 2023.

The enhanced rates will now continue in full until 31 March 2025, with the intermediate rate applying until 31 March 2026. As a result, the theatre and museums and galleries exhibitions tax credit rates will remain at 45% (50% for touring productions or exhibitions) until 31 March 2025. The rates will then be 30% (35%) until 31 March 2026 and 20% (25%) from 1 April 2026. Orchestra tax credits will remain at 50% until 31 March 2025 and will then be 35% until 31 March 2026 and 25% from 1 April 2026.

Museums and galleries exhibitions tax relief will also be extended for two years, so that it will expire on 31 March 2026 and expenditure incurred after that date will not qualify for relief.

The Government also intends to make significant changes to the creative sector reliefs in the Finance Bill 2023–24. The changes are as follows:

1. the film, TV and video games reliefs will be replaced by two expenditure credits, an audio-visual credit for films and TV at 34% and a video games credit at 39%. The tax credits will be based on the research and development expenditure credit (RDEC). The new regime will be available for companies to claim for accounting periods ending on or after 1 January 2024 for expenditure incurred on or after that date. Under transitional rules, it will be possible to use the old regime for the accounting period if it began before 1 January 2024 but expenditure was incurred on or after this date. Productions that have claimed relief under the current system will be able to opt into the new regime. The current tax reliefs will close to new productions from 1 April 2025. Films and TV programmes that have not concluded principal photography, and video games that have not concluded development by 1 April 2025 may continue to claim relief under the current regime until 31 March 2027;
2. the eligibility criteria for TV productions and video games under the new regime will be amended;
1. from 1 April 2024, the definition of qualifying expenditure under the theatre tax relief, orchestra tax relief and museums and galleries exhibitions tax relief schemes will be amended to remove EEA expenditure;
2. administrative changes will be made to address unintended consequences and to improve compliance. These will include a new anti-abuse measure on payments between connected parties. The changes will apply from January 2024.

Full details and draft legislation will be published in summer 2023.

## **Real estate investment trusts**

As announced in the Edinburgh Reforms on 9 December 2022, the Government will legislate in Finance (No 2) Bill 2023 to amend the REIT regime to enhance its overall competitiveness by making the following three changes:

1. the requirement for a REIT to own at least three properties will be removed where it holds a single commercial property worth at least £20m;
2. the provisions that apply to properties disposed of within three years of significant development activity will be amended, to ensure the valuation used when calculating what constitutes a significant development better reflects increases in property values;
3. the rules for deduction of tax from property income distributions paid to partnerships are amended to allow the payment of a property income distribution to a partnership to be made partly gross and partly with tax withheld. The distribution will be permitted to be paid gross to the extent that it relates to the income of partners that would be entitled to gross payment if they held a direct interest in the REIT.

The changes to the three-year development rule will take effect in relation to disposals made from 1 April 2023. The other changes will take effect from the date of Royal Assent for Finance (No 2) Bill 2023.

## **OECD Pillar 2**

As announced in the Autumn Statement 2022, the Government will legislate in Spring Finance Bill 2023 to implement the globally agreed G20-OECD Pillar 2 framework in the UK. The Government will introduce:

1. a multinational top-up tax which will require large UK headquartered multinational groups to pay a top-up tax where their operations in a foreign jurisdiction have an effective tax rate of less than 15%. The measure would also apply to non-UK headquartered groups with UK members that are partially owned by third parties or where the headquartered jurisdiction does not implement the Pillar 2 framework, and
2. a supplementary domestic top-up tax which will require large groups, including those operating exclusively in the UK, to pay a top-up tax where their UK operations have an effective tax rate of less than 15%

These changes will apply to large groups with over €750 million global revenues and will take effect in relation to accounting periods beginning on or after 31 December 2023.

## **Energy sector**

The Government has confirmed that two measures announced in the Autumn Statement 2022 which relate to the energy sector will be included in the Finance (No 2) Bill 2023. The measures are as follows:

1. a temporary 45% Electricity Generator Levy will apply from 1 January 2023 to 31 March 2028 to exceptional electricity generation receipts exceeding £10 million per year arising from non-fossil fuel sources. It will apply to corporate groups with more than 50,000 MWh of generation per year. Exceptional receipts are receipts in excess of a benchmark price of £75 per MWh
2. the rate of the investment allowance in the Energy Profits Levy will be 80% for investment expenditure incurred on decarbonisation of oil and gas production. This change will take effect from 1 January 2023

## **Investment zones**

The Government announced that it is proceeding with its Investment Zones programme and has invited eight areas in England to begin discussions on establishing such Zones. The areas are Greater Manchester, North East, South Yorkshire, West Midlands, Liverpool City Region, West Yorkshire, Tees Valley and East Midlands. The Government is working with the devolved administrations to establish how Investment Zones in Scotland, Wales and Northern Ireland will be delivered. Each Zone will be offered funding of £80 million, split between spending and tax incentives.

The Finance (No 2) Bill 2023 will include legislation building on the Freeports provisions to allow designation of special tax sites in or connected with Investment Zones and to enable such sites to benefit from the tax incentives.

The Government will offer the following tax reliefs, which will be available for five years:

1. full stamp duty land tax relief for land and buildings purchased for commercial use or development for commercial purposes;
2. 100% relief from business rates on newly occupied business premises, and certain existing businesses which expand in a tax site;
3. 100% first-year allowance for companies' qualifying expenditure on plant and machinery for use in a tax site;
4. enhanced rate of structures and buildings allowance of 10% a year on the cost of non-residential buildings or structures;
5. zero-rate employer NIC on salaries of any new employee working in the tax site for at least 60% of their time, on earnings up to £25,000 per year, for 36 months per employee.

## Other business and enterprise measures

**Capital gains tax relief on disposals of joint interests in land and private residences for Limited Liability Partnerships (LLPs) and Scottish partnerships** — legislation will be included in the Spring Finance Bill 2023 to correct an anomaly in the capital gains tax legislation. From 6 April 2023, the legislation will ensure that rollover relief and private residence relief are available for LLPs and Scottish partnerships on exchanges of joint interests in land.

**Transfer pricing documentation** — it was confirmed that legislation (with supporting regulations) will be introduced in Spring Finance Bill 2023, to require businesses to prepare transfer pricing documentation in accordance with the OECD transfer pricing guidelines. These provisions have been widely consulted on and will apply for accounting periods commencing on or after 1 April 2023 (for corporation tax purposes) and from 2024/25 (for income tax purposes).

**Patent Box** — consequential amendments will be made to existing legislation to ensure that companies paying the small profits rate of corporation tax from April 2023 will continue to pay the correct preferential rate of corporation tax on their Patent Box profits.

**Corporate interest restriction** — various amendments will be made to the corporate interest restriction rules to ensure that they work as intended. The majority of these will apply for periods commencing on or after 1 April 2023 and include provisions to ensure that the interest allowance can be carried forward when a new holding company is inserted part way through an accounting period; clarify as to what is included in tax-EBITDA; remove mismatches between tax-interest and group-interest and amend various administrative requirements.

**Lump sum exit scheme payments** — legislation will be introduced to clarify that payments under the lump sum exit scheme are treated as capital receipts, and will therefore be charged to capital gains tax (or for companies, to corporation tax as chargeable gains).

**Qualifying asset holding companies** — a series of amendments were made to the operation of the qualifying asset holding companies (QAHC) rules so that the conditions that must be met by a company to qualify as a QAHC better align with the intended scope of the regime.

These include clarification that a securitisation company cannot also be a QAHC (with effect from 15 March 2023), the extension of the anti-fragmentation rule (with effect from 20 July 2022), amendment to the definition of a collective investment scheme and the rules for determining whether a fund is close (with effect from 1 April 2022, when the regime was first introduced).

**Genuine Diversity of Ownership** — the Genuine Diversity of Ownership (GDO) condition is relevant to several tax regimes including the REIT, QAHC and non-resident capital gains rules. It is intended to prevent funds that are only open to a small number of predetermined investors from benefitting from those regimes. The GDO condition must currently be applied to each entity within a fund structure in isolation which can have unintended consequences for investors that are part of wider fund arrangements. With effect from the date of Royal Asset to Finance (No 2) Bill 2023, the condition will be amended so that where an individual investment entity forms part of a wider fund arrangement, that entity can satisfy the GDO condition by reference to the arrangements as a whole (for example, where the arrangements include a group of entities which form part of a wider fund structure where an investor would reasonably regard their investment to be in the wider overall structure).

**Tonnage tax** — regulations will be laid to ensure that the election window permitting companies to re-enter the tonnage tax regime will be open in June 2023 for 18 months. Also, from 1 April 2024, third party ship management companies will be permitted to join the tonnage tax regime and the limit on capital allowances will be raised to £200m for lessors of ships into the regime.

**Transfers of long-term business: re-insurance** — from 15 December 2022 (and regardless of when the re-insurance contract was entered into), an amendment will be made to the Basic Life Assurance and General Annuity Business (BLAGAB) re-insurance rules which addresses a possible tax mismatch that can result in a corporation tax loss where a transfer of BLAGAB is preceded by re-insurance. A second change, which applies to accounting periods ending on or after 15 December 2022, will restrict the scope of the rules in [FA 2012, s 92](#) where sums are paid under a re-insurance contract and substantially all the risks relating to the policies are re-insured.

**Write-downs for annuities products and insurers' liabilities** — legislation is to be introduced in Finance (No 2) Bill 2023 to prevent adverse tax consequences arising to insurers who experience financial distress and have their liabilities written down by a court, and individuals who hold annuities provided by insurers who experience financial distress. These include preventing the corporation tax consequences that would otherwise arise when an insurer's liabilities are written down under the proposed new section 377A of the Financial Services and Markets Act 2000 and any subsequent write up and also extends the circumstances in which a pre-6 April 2015 lifetime annuity or dependents annuity under a registered pension scheme can be reduced without incurring unauthorised payments charges.

## **VAT and indirect taxes**

### **Healthcare extension**

The VAT healthcare exemption will be extended to include medical services carried out by staff who are directly supervised by registered pharmacists. As it stands, there is an exemption when care services are performed by a person not enrolled on a statutory medical register (for example, a care assistant) when the care services are directly supervised by a health professional. However, pharmacists were specifically excluded, so that care services supervised by a pharmacist did not qualify for exemption.

This extension of the exemption to include care supervised by pharmacists will take effect from 1 May 2023. It aims to ensure the VAT system keeps pace with changes to how the NHS operates.

### **Treatment of medicines supplies through Patient Group Directions**

The zero rate for prescriptions will be extended to medicines supplied through Patient Group Directions. Patient Group Directions permit pharmacists to issue defined drugs to a class of patients presenting with particular conditions without the patient needing to see a prescriber. This can be useful in services where assessment and treatment follows a clearly predictable pattern (eg immunisation, family planning) or where a practice nurse has the experience and knowledge to make decisions on appropriate treatment (eg travel clinics).

Like the extension of exemption to services supervised by pharmacists, the proposed amendments to the zero rate aim to ensure the tax system keeps pace with changes to the reality of healthcare delivery.

### **Digitisation and reform of DIY housebuilders' scheme**

It was announced that the Government intends to 'digitise' the DIY housebuilders' scheme. The scheme — which is currently predominantly paper-based — entitles certain individuals or charities to claim refunds of VAT incurred in relation to some of the goods and services they use for specified construction and conversion works.

In addition to digitisation of the scheme, the narrow three-month post-completion window for making claims, which has caused significant practical difficulties for potential claimants, will be extended to six months.

### **Further changes to late payment penalties and interest**

The Government plans to make 'minor, technical changes' to the new harmonised interest and late penalty rules for VAT which came into force from 1 January 2023. The changes are as follows:

1. where HMRC makes an assessment because it has made a payment or repayment to a taxpayer which is too high, late payment interest will be charged from the date HMRC made the payment (as opposed to 30 days after the date of the assessment);

2. late payment penalties and interest will not be charged on annual accounting scheme instalments that are paid late but will still apply to balancing payments;
3. an obsolete uncommenced repayment interest provision will be removed.

## **Deposit return scheme**

Legislation in Finance (No 2) Bill 2023 will aim to simplify the VAT treatment of deposits charged under a deposit return scheme for drinks containers.

Where a deposit is charged on a drink that is within the scope of a deposit return scheme and the container is returned for recycling, VAT will not be applied to the deposit amount. Where the container is not returned for recycling, HMRC will collect the VAT on the unredeemed deposit.

The deposit return scheme is set to be introduced in 2025.

## **Update on reform of rules on fund management**

A consultation on the VAT treatment of fund management ended in February 2023. Proposed reforms are not intended to result in a substantive policy change but instead to clarify the VAT legislation in this area.

No response to the consultation was published in the Budget documents but it was confirmed that the Government is 'considering the responses' and will publish a response 'in the coming months'.

## **Customs — proposed package of simplification measures**

As part of its Budget activities the Government announced a package of measures apparently aimed at simplifying customs import and export procedures. The package included:

1. a review into simplifying customs declaration requirements;
2. introducing voluntary standards for customs intermediaries;
3. transit policy simplifications;
4. modernising authorisations (trusted trader schemes);
5. changes to customs guarantees for special procedures, temporary storage and duty deferment.

Each element of this package will require stakeholder engagement and this is scheduled to take place throughout the course of 2023.

A policy paper entitled Spring Budget 2023 customs package was published on Budget Day with some further explanation of each area and the plans for stakeholder engagement. This did not feature in the Overview of tax legislation and rates (March 2023).



## Other indirect tax measures

**Review of VAT treatment of financial services** — the Government will continue to work with industry stakeholders to consider possible reforms to simplify the VAT treatment of financial services.

**Alcohol duty structure reform** — changes to the duty structure for alcohol will be legislated for in Finance (No 2) Bill 2023 which will be effective from 1 August 2023,.

**Alcohol duty rates** — alcohol duty rates will increase under the revised duty structure in line with RPI but Draught Relief will also increase from 1 August 2023.

**Tobacco duty rates** — the duty rate on all tobacco products will be increased by 2% above RPI and the duty rate for hand-rolling tobacco will rise by an additional 4%.

**Air passenger duty band reform** — air passenger duty bands will be reformed from 1 April 2023 introducing new domestic and ultra-long-haul bands.

**Vehicle excise duty rates** — the Government will legislate in Finance (No 2) Bill 2023 to increase VED rates for cars, vans and motorcycles in line with RPI from 1 April 2023. To support the haulage sector, VED for HGVs will remain frozen for 2023-24.

**New HGV levy** — a new reformed HGV levy will be introduced from August 2023.

**Aggregates levy exemption** — changes to aggregates levy will be introduced from 1 October 2023 bringing previously untaxed aggregate extracted for use on construction sites within the scope of the tax.

**Fuel duty rates** — the Government will legislate by Statutory Instrument to extend the cut in the rates of Fuel Duty introduced at Spring Statement in March 2022 for a further 12 months. This will maintain the cut in the rates for heavy oil (diesel and kerosene), unleaded petrol, and light oil by five pence per litre (ppl), and the proportionate percentage cut (equivalent to 5ppl from the main Fuel Duty rate of 57.95 ppl) in other lower rates and the rates for rebated fuels, where practical. The changes will take effect from 23 March 2023.

**Aggregates levy rates** — the aggregates levy rate will be frozen in 2023–24 but the Government plans to raise rates in line with RPI from 1 April 2024.

**Landfill tax rates** — the standard and lower rates of landfill tax will rise in line with RPI from 1 April 2023.

**CCL rates** — the main rates of climate change levy for gas and solid fuels will be increased,.

**Plastic packaging tax rate** — the Government will legislate in the Finance (No 2) Bill 2023 to increase the rate of Plastic Packaging Tax in line with CPI. The change will take effect from 1 April 2023.

**Plastic packaging tax amendment to penalties for late payment tax** — the Government will legislate in the Finance (No 2) Bill 2023 to amend the penalty rules for late payment of Plastic Packaging Tax to ensure that all late payments are treated consistently.

**Soft drinks industry levy: concentrates mixed with sugar when dispensed** — the Government will legislate in the Finance (No 2) Bill 2023 to amend the definition of a soft drink liable to the

Soft Drinks Industry Levy to include concentrates which are mixed with sugar when dispensed (usually served by restaurants and pubs). Following publication of draft legislation on 20 July 2022, powers to make regulations will be included to provide the appropriate flexibility for future changes. The changes will take effect from 1 April 2023.

**Temporary approvals for certain excise regimes** — the Government will legislate in the Finance (No 2) Bill 2023 to amend legislation which allows businesses to continue trading during the review or appeal period where their excise approval has been revoked by HMRC. The amendment will extend businesses' ability to trade for a short period where they are unsuccessful in overturning HMRC's decision. This is so businesses can legally dispose of stock without incurring a penalty.

**Insurance Premium Tax (IPT): power to make regulations by references to notices** — the Government will legislate in the Finance (No 2) Bill 2023 to broaden existing powers to allow HMRC to move IPT forms from secondary legislation and into a public notice by way of a Statutory Instrument. This will make it easier to make administrative updates to the forms without the need for legislation, and also provides a necessary step for any future legislation allowing HMRC to further digitise the IPT forms.

**Customs advance valuation rulings** — customs advance valuation rulings will be introduced enabling taxpayers to apply to HMRC for an advanced ruling on the customs value of goods for a period of three years.

**Reviews and appeals of customs guarantees** — traders will be empowered to request a review of, or appeal against, a decision by HMRC to require a financial guarantee before releasing imported goods in certain circumstances.

**Gross Gaming Yield bandings** — the Gross Gaming Yield bandings used to determine the rate of gaming duty will be frozen from 1 April 2023.