Argenta

Tax Newsletter

November 2015

Welcome to the Autumn Statement edition of the Argenta Tax & Corporate Services Limited **(ATCSL)** Tax Newsletter.

Given that we have already had two Budgets in 2015, one would not expect the Autumn Statement to contain a great deal of new tax content. To be fair to the Chancellor, the Statement was relatively benign, but owners of residential investment properties have being targeted, as they were in the Summer Budget. Again, Mr Osborne has been canny in how he has achieved savings. As with the acceleration of corporation tax payments announced in the Summer, he has brought forward the date for the payment of capital gains tax on the sale of residential property to within 30 days of completion, which creates another very large “permanent” saving by speeding up the recognition of tax receipts.

We have summarised below more detail around legislative changes announced at the Summer Budget which are of direct relevance to many of our clients. The changes to the deductibility of interest on funding for buy-to-lets and the amendments to the taxation of dividends legislation are costly to taxpayers.

Autumn Statement

Capital Gains Tax

From April 2019, individuals and trustees who dispose of residential property will be required to make a payment on account of the capital gains tax **(CGT)** due within 30 days of the completion of the disposal. This is not intended to affect properties which are not liable to CGT as a result of private residence relief. Draft legislation will be published for consultation in 2016.

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Stamp taxes

From 1 April 2016, higher rates of stamp duty land tax **(SDLT)** are to be imposed on purchases of additional residential properties, such as buy-to-let properties and second homes, where the purchase price exceeds £40,000. The higher rates will be 3% above the current SDLT ratesand will not apply to purchases of caravans, mobile homes or houseboats, or to companies or funds making 'significant investments' in residential property. The Government will consult on the policy detail, including on whether an exemption for companies and funds owning more than 15 residential properties is appropriate.

These changes, together with the previously announced direct tax changes to the taxation of buy-to-let properties, may significantly affect the buy-to-let market.

Pensions

The Government is reviewing the responses to the recent consultation on pensions and intends to respond at the 2016 Budget.

Anti-avoidance Abuse

The Government has confirmed that it will implement the anti-avoidance sanctions proposals raised in the Summer Budget. These include a 60% penalty for all cases successfully tackled by the general anti-abuse rule, as well as additional reporting requirements, surcharges, and a 'naming and shaming' regime for 'serial avoiders' who persistently enter into avoidance schemes that are defeated by HMRC.

Offshore tax evasion

Following recent consultations, the Government confirmed its intention to introduce in the Finance Bill 2016 a new strict liability criminal offence for failure to declare offshore income and gains, civil penalties for those who enable offshore tax evasion (including public naming), and increased civil penalties for deliberate offshore tax evasion (including public naming and value based penalties). The Government also intends to introduce a new criminal offence for companies that fail to prevent tax evasion but has not yet stated a timeframe. The Government will consult on an additional requirement for individuals to correct past offshore non-compliance (with penalties for a failure to do so) and has launched a call for evidence on the impact of the trend away from cash on tax compliance.

Draft Finance Bill 2016

Draft clauses for the 2016 Finance Bill will be published on 9 December. This will include draft legislation to tackle perceived anomalies in the taxation of loan relationships under the new accounting standards.

Consultations

A consultation on the rules concerning company distributions is planned for later in the year. We are hoping that this will not lead to changes in the dividend exemption rules. With a headline rate of corporation tax of 18%, the UK looks an attractive place to do business, but with recent legislation imposing a 7.5% increase in personal taxation on the receipt of dividend income, any further adjustments to the corporation tax system could be unsettling for business and investment.

Analysis of Key Issues from Summer Budget

Now is a good time to revisit some of the issues coming out of the Summer Budget 2015 before they become implemented with effect from 5 April 2016. We flagged a couple of issues in our July Tax Newsletter, which we feel are worthy of further comment.

Interest deductibility for buy-to-let properties

Clearly the Government is not a fan of buy-to-let landlords. The SDLT measure mentioned above comes hot on the heels of the measure to restrict the relief for finance costs on residential property to the basic rate of income tax. The new rules work so that profits are computed without regard to interest payable on loans. Tax is then calculated on this profit and there is then a separate relief – a "tax reduction" – which provides basic rate relief on the interest paid.

The changes are to be phased in over three years, starting from 6 April 2017, with the new rules applying to 25% of the relevant interest in the first year; 50% in the second; and 75% in the third, with full restriction on all relevant interest payments from 6 April 2020. One might think this will would only be a headache for higher rate taxpayers, but basic rate taxpayers will also be affected. Here is a simple example

Sam Cam has a portfolio of Cornish investment properties. It generates rental income of £90,000 but is heavily leveraged, incurring annual interest costs of £75,000 i.e. the economic profit is £15,000. She has no other income. Let's compare Sam's tax liability for 2015-2016 with that in 2020-21:

	2015-16	**2020-21**
	£	**£**
Rental Income	90,000	90,000
Interest deductible	(75,000)	0
Net profit	15,000	90,000
Tax (20/40%)*	880	25,421
Tax reduction (20%)		(15,000)
Liability	880	10,421
Effective tax rate	**5.9%**	**70%**

*Assumes rates and thresholds remain constant over time

The new rules have an enormous impact on leveraged buy-to-let businesses. In some situations, the overall tax liability can be greater than the net profit of the business, making it uncommercial.

It is worth noting that these rules do not apply to businesses carried on through a company. Companies will still enjoy a full deduction for interest payments. Those taxpayers who might be tempted to incorporate will need to think about CGT (will incorporation relief be available?), SDLT, new rules on dividend taxation (see below) and whether George Osborne might, sometime in the future, review the advantages of incorporation.

Clients with residential properties really need to consider their long term plans and understand how their cashflows will be affected by this legislation. ATCSL will be pleased to assist you in preparing cashflow forecasts that can be used in devising a strategy for your property portfolio for the future.

Taxation of dividends.

At the Summer Budget, it was announced that from, 5 April 2016, dividends would no longer carry a tax credit. Individuals will be subject to tax on the dividend received. The first £5,000 of dividend income in each tax year will be taxed at 0% (which is not the same as tax free!). Sums above that will be taxed at 7.5 per cent for basic-rate taxpayers; 32.5 per cent for higher-rate taxpayers; and 38.1 per cent for additional-rate taxpayers. This is a 7.5% increase for each band. This change is particularly relevant for high earners who currently structure a large part of their earnings as dividends eg owner managed companies.

For those NameCos with distributable profits, shareholders should consider whether dividends should be paid prior to 6 April 2016. By way of example, a dividend of £100,000 paid after 5 April 2016 will suffer an extra tax charge of at least £5,597 more than if the dividend was paid prior to 5 April 2016!

For further details on the taxation services provided by ATCSL, or any further information on the articles included in this newsletter, please contact us:

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