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Autumn Statement 2012 - An Update



We recently sent you our Autumn Statement summary and promised to provide you with an update if there were any significant announcements.

On 11 December much of the draft legislation for the Finance Bill 2013 was issued for consultation and once again HM Treasury did not disappoint! Well over 1,000 pages of draft legislation and explanatory notes hit the Treasury website. Much of this is very heavy technical material but from within it we have distilled some key issues which update the items covered in the earlier summary.

A cap on income tax relief

The Government announced in Budget 2012 the introduction of a limit on uncapped income tax reliefs from April 2013. Individuals will be able to claim reliefs worth up to £50,000 or 25% of their income, whichever is greater.

The cap will only apply to reliefs that are offset against general income and are not currently capped. Reliefs that have their own limits will not be affected by the cap. For example venture capital reliefs such as the Enterprise Investment Scheme (EIS) which gives income tax relief of 30% of the investment are excluded.

There have been some changes to what losses will be capped. Losses on shares purchased in certain unquoted trading companies may be claimed as a relief against income. These losses are currently unlimited and so will be included in the relief cap. However, these losses can include a loss on shares purchased under the EIS. The Government has now decided that such losses will not be capped.

Annual Investment Allowance (AIA)

The AIA provides a 100% deduction for the cost of plant and machinery purchased by a business up to an annual limit which is currently £25,000 (with effect from April 2012). The Chancellor announced that this limit will rise to £250,000 for a period of two years from 1 January 2013.

What he didn't tell us is how the maximum amount of AIA would be computed for an accounting period which straddles 1 January 2013.

The draft legislation now provides the details.

Where a business has an accounting period that straddles the date of change the allowances have to be apportioned on a time basis.

Example

A company has a 12 month accounting period ending on 30 June 2013 (which starts on 1 July 2012). The AIA will be £137,500 (£25,000 x ½ + £250,000 x ½).

However for expenditure incurred before the 1 January 2013, new legislation will be introduced to limit the maximum figure available. The maximum allowance will be the AIA that would have been due for the whole of the accounting period to 30 June 2013 if the increase in AIA had not taken place. This would have meant that the company would have been entitled to £25,000 for the 12 months and so this is the limit for the six months to 31 December.

On 1 January 2015, the AIA will revert back to £25,000. This will mean that the same company will have an AIA in later periods as follows:

Accounting period to 30 June 2014	£250,000
Accounting period to 30 June 2015	£137,500

Comment

The rules for accounting periods straddling 1 January are complicated and this is without the additional complications that arise if part of the accounting period commences prior to April 2012 (as yet another AIA limit needs to be factored in).

Tip

The main point to appreciate is that expenditure incurred after 31 December 2012, may give a full tax write off but expenditure incurred before the 1 January 2013 may not give this result.

Also note that it may pay to defer the expenditure until after the end of your current accounting period as the full £250,000 AIA may be available.

Please contact us before capital expenditure is incurred for your business in a current accounting period, so that we can help you to maximise the AIA available.

A simpler tax system for smaller businesses

Draft legislation has been issued on:

- a cash basis for computing profits where an unincorporated business has a turnover up to £77,000
- a range of expenses that many unincorporated businesses will be able to claim on a flat rate basis rather than having to identify actual amounts spent.

The cash basis will be implemented for the tax year 2013/14. A business will be able to continue to use the cash basis until its turnover reaches £154,000. Further draft legislation will be issued on the transition from and to the cash basis.

Claiming expenses on a flat rate basis will not be open to partnerships which include a corporate partner.

Flat rate expenses will be available for:

- Cars, vans and motorcycles. For cars or vans the rate for the first 10,000 business miles is 45p, after which the rate reduces to 25p. For motorcycles the rate is 24p
- Business use of a home. Provided certain conditions are satisfied, the following monthly rates will be allowed:

Business use in a month	Deduction
25 hours or more	£10
51 hours or more	£18
101 hours or more	£26

Enterprise Management Incentives (EMI)

As announced at Budget 2012, the Government will extend capital gains tax entrepreneurs' relief to shares acquired through the exercise of EMI share options. Legislation will be introduced to extend the relief to EMI shares by removing the 5% minimum shareholding requirement and allowing the 12 month minimum holding requirement to commence on the date the option is granted.

This measure applies to shares acquired on or after 6 April 2012 that are disposed of on or after 6 April 2013.

Following consultation over the summer, the Government has decided not to proceed with changes that had been proposed to extend access to EMI for academic employees.

Comment

This is a welcome change by the Government in allowing the 12 month minimum holding requirement to commence on the date the option is granted. The original proposal was that the employee would have to exercise the option and then hold the shares acquired for 12 months before the disposal of the shares could qualify for entrepreneurs' relief.

Statutory Residence Test (SRT)

Following further consultation, the government have made a number of changes to the detail of the SRT. The fundamental concept remains in place with three tests to be considered. The key changes now announced are as follows.

- In the full time work overseas test for the automatic overseas test (AOT) the number of working days permitted in the UK has been increased to 30 from 20. A working day remains defined as 3 hours or more.
- An additional test for the AOT provides that the test will be met if the individual dies in the year but was not resident in the UK in either of the two preceding years and spends less than 46 days in the UK in the year of death.
- The definition of a day of presence in the UK has been widened so that in some situations a day will be counted even if the individual is not in the UK at midnight. Where they have at least 30 days on which they are in the UK at some point in the day but not at midnight, any days in excess of 30 will be deemed to be days of presence where the individual has at least three UK ties (as defined for the sufficient ties test) and the individual was resident in the UK in at least one of the three preceding UK tax years.
- The definition of a home for the automatic residence test (ART) has been clarified.
- The full time work in the UK test for the ART has been extended to a period of 12 months rather than nine.
- The application of the ART in the year of death has been modified.
- The residence position of a minor child for the purposes of the sufficient ties test (STT) has been clarified.
- Anti-avoidance provisions are being introduced to deal with situations in which profits earned before a period of non residence are paid out as dividends after the individual has become not resident and also situations in which loans are written off after non residence has commenced.

Disclaimer – for information of users

This summary is published for the information of clients. It provides an overview of the draft legislation for the Finance Bill 2013 which was issued for consultation on 11 December and previous announcements. No action should be taken without consulting the detailed legislation or seeking professional advice. Therefore no responsibility for loss occasioned by any person acting or refraining from action as a result of the material contained in this summary can be accepted by the authors or the firm.