very useful solutions limited

Budget 2012

George Osborne's third Budget speech took place on 21 March 2012. As with all Budgets in recent times, there has already been much media coverage of the speech itself. In addition, much of the Finance Bill content was released for consultation in December 2011 and much of the Budget content was announced/leaked over recent weeks. As a result there were few real surprises on Budget day and the headline grabbing announcements have already received much publicity.

Whilst there were clearly some proposals to be welcomed, in particular higher personal allowances for most taxpayers and for those with high enough incomes the reduction in the 50% tax rate, below are the proposals less well publicized which affect smaller businesses.

One relief not mentioned at all by The Chancellor was the Annual Investment Allowance (AIA). This is available to all businesses and allows a 100% write off for tax purposes in respect of investments in plant, machinery and commercial vehicles. Probably The Chancellor did not want to draw attention to previous announcements that the current AIA limit of £100,000 p.a. is to fall to £25,000 p.a. from 6 April 2012 (1 April 2012 for companies). Not only is the limit falling significantly in actual terms but, for those with accounting periods which straddle the date of change, there is also a restriction of £2,083 per month for post date of change acquisitions. What this means is that any unused proportion of the £100,000 limit cannot be carried forward. To avoid this trap any business contemplating investments in plant, machinery or commercial vehicles which wishes to maximise its AIA tax relief claim should ensure any acquisitions are made on or before 5 April 2012 (31 March 2012 for companies).

Concentrating now on the Budget speech itself and associated news released the following are also worthy of note:-

- New measures are to be introduced "to tighten up on avoidance through the use of personal service companies" and improve the so called IR35 legislation. These new measures will, in particular, focus on "office holders/controlling persons who are integral to the running of an organization" to ensure their pay is subjected to PAYE/NI at source. The exact extent of any changes is not yet known but it seems some changes will certainly take place, probably with effect from 6 April 2013. In the meantime HMRC are to strengthen their specialist compliance teams dealing with personal service company issues and at the same time try to simplify IR35 administration.

- Whilst the 50% tax rate is to disappear it will remain in all but name for those with income of between £50,000 and £60,000 where either they (or their partners) are in receipt of child benefit. If both partners have income above £50,000 only the higher earner will suffer the special charge expressed to be 1% of the Child Benefit Award for each £100 of income between £50,000 and £60,000.

  What this means (based on a rate of Child Benefit for the first child at £20.30 per week) is an effective rate of charge in the region of 10½% (so a total rate of charge of 50½%). Where there is more than one child then (based on a rate of Child Benefit for second and subsequent children of £13.40 per week) for each additional child an extra charge arises at an effective rate of about 7%.

- Legislation is to be introduced, presumably effective from 6 April 2013, in Finance Bill 2013 to restrict relief on pension contributions made in respect of an employee's family members. This change seems to be targeted at countering tax avoidance so hopefully genuine commercial arrangements will be unaffected.

- It has been confirmed that when employer real time PAYE information starts to be submitted to HMRC immediately after each payment of wages/salaries (rather than annually via the P35 return as at present) a late filing penalty regime will apply. This will be in addition to the late payment of PAYE penalty regime which commenced in May 2010.

- For sole traders and partnership (but not LLPs) with a turnover below the VAT registration threshold (£77,000 p.a. from 1 April 2012) a simplified basis of calculating profits will be available with effect from 6 April 2013. At present profits should be calculated using all (or almost all) of the accounting principles as they apply to large companies which often introduces unwarranted complications for small businesses. The simplified basis (which is likely to be optional) will allow profits to be calculated purely by reference to business receipts and payments (i.e. cash monies in, plus bankings, less expenses paid). This is likely to be especially advantageous to businesses which currently have to include year end debtors, unbilled sales, stock and work in progress in their profit calculations as they will enjoy not only the benefits of an easier computation of their profit figure but also, in many cases, the profit figure calculated, and therefore tax thereon, will be lower than under the current rules.

- Over recent years many small businesses have transferred into limited companies, often for tax reasons. In most cases the result has been beneficial but in some instances circumstances have changed. However, unlike incorporation, there are no specific tax reliefs for disincorporation and consequently there are often adverse tax issues which arise when trying to transfer a business from a limited company to sole trader or partnership status. The Chancellor has committed to consult on a disincorporation relief which may be introduced at some future date to help those who wish to discontinue with a limited company structure but are prevented from doing so by potential tax liabilities.

- From 2013 the level of fixed penalties (e.g. the £100 late self assessment tax return filing penalty) will potentially increase each year in line with inflation. At the same time HMRC will receive additional powers to facilitate criminal investigations. Also new exchange of information procedures will be developed to "combat cross border tax evasion".

- For incorporated companies who wish to involve employees as shareholders the Enterprise Management Incentive Scheme (EMIS) is often an ideal structure (broadly because it involves share options rather than actual shares and is a HMRC approved scheme). However, following the replacement of Taper Relief with Entrepreneurs' Relief in April 2008, the EMIS suffered from not easily being able to access the 10% Capital Gains Tax rate on any gain arising on the exercise of the share option and sale at a profit of the shares acquired. From 6 April 2012 it seems this disadvantage is to be removed.

- The VAT registration threshold will increase to £77,000 p.a. from April 2012. With effect from 1 October 2012 legislation will be introduced to charge the standard 20% VAT rate on alterations to listed buildings and in respect of the provision of designated storage facilities. Furthermore, legislation will ensure that all hot food, sports drinks, holiday caravans and fees paid by self employed hairdressers for "chair rent" in a salon are liable to VAT at the standard 20% rate (note that in respect of these latter categories HMRC may well contend that under existing legislation 20% VAT is already chargeable and the new legislation is intended to put the position beyond doubt).

- Company car benefits and company car fuel benefits are to increase yet again from 6 April 2012 and are set to increase well in excess of inflation in subsequent years. In addition, from 6 April 2015 the maximum percentage car benefit charge will increase from 35% to 37%. These changes will mean that the provision of fuel for private use in respect of a company car will, in many cases, become even more tax inefficient and indeed the provision of a company car (especially cars with higher emission levels and/or cars used significantly for business purposes) continues to become more tax inefficient. Also note that the first year vehicle excise duty for a car with emissions over 255 g/km will be £1,030 with effect from 1 April 2012 (£475 p.a. for the second and subsequent years).

- With effect from 6 April 2013 a new statutory test of UK residence will be introduced. In addition a General Anti Avoidance Rule will apply to (as yet undefined) artificial and abusive tax avoidance schemes.

If you wish to discuss any aspect of the above, please do not hesitate to contact us accordingly.

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