THE U.K. GROWTH PLAN 2022

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Tags
Additional Rate of Income Tax
Annual Investment Allowance
Basic Rate of Income Tax
C.S.O.P.
Investment Zones
I.R. 35
Kwarteng
Liz Truss
Mini Budget
O.T.S.
S.E.I.S.
S.D.L.T.
Tax on Dividend

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INTRODUCTION

A mere three weeks after Liz Truss became Prime Minister of the U.K., the Chancellor of the Exchequer, Kwasi Kwarteng, stood up on the morning of September 23, 2022 to announce the new Government's Growth Plan. Billed as a "Mini Budget," it became a far greater set of announcements than expected, and even caused gasps of shock among the M.P.'s within the Conservative Party. The announcements amount to £45 billion of tax cuts resulting in the biggest such package since 1972, larger than the cuts announced by Nigel Lawson in 1988. These cuts follow on from the announcement for help with energy bills for two years which are budgeted to cost £60 billion in the next six months. All of these cuts and costs are to be financed initially by borrowing and are intended to stimulate economic growth leading to higher tax collections.

With such large tax cuts announced and further reforms promised, it was perhaps surprising that the Chancellor announced that he will close the Office of Tax Simplification ("O.T.S."). The O.T.S. is an independent adviser to the government and answerable to the Treasury. It was created to provide the Chancellor with advice on tax reforms that principally would assist individuals and small businesses. However, Kwasi Kwarteng said he wanted to "mainstream" the O.T.S.'s work across the Treasury and H.M.R.C. He went on to say

> [F]or the tax system to favour growth, it needs to be much simpler * * * instead of a single arm's-length body which is separate from the Treasury and H.M.R.C., we need to embed tax simplification into the heart of government.

Some may argue that an independent adviser would assist the Chancellor, but it seems that, with the abolition of the O.T.S. and the announcements made without any report from the Office for Budget Responsibility, outside influence is not something Liz Truss and her cabinet will be seeking.

The various tax changes are summarized below.

U.K. CORPORATION TAX

The main rate of corporation tax will not increase to 25% in April 2023 as originally planned and will remain at 19%. This reverses one of the announcements made by the previous Chancellor, Rishi Sunak, in 2021. The tax rate that will apply to profits caught under the diverted profits tax legislation will remain at 25%, maintaining the 6% differential with the main corporation tax rate. The previously announced increase in the diverted profits tax rate to 31% is also, therefore, cancelled.

The corporation tax surcharge that is applied to banking profits will also remain unchanged at 8%. This will mean a combined rate of tax on profits paid by banks and building societies of 27%. However, the level at which the bank surcharge takes effect will be increased to £100 million.

As the next Finance Bill Is likely to be in July 2023, the changes are expected to be introduced provisionally through the Provisional Collection of Taxes Act 1968.

ALLOWANCES FOR BUSINESSES

The Annual Investment Allowance ("A.I.A.") provides a 100% deduction in relation to qualifying expenditure on plant and machinery. This was temporarily increased to £1 million and was planned to be reduced to £200,000 from April 1, 2023. The temporary increase in the limit will now be permanent.

Making the A.I.A. increase permanent will allow businesses to plan expenditure more efficiently by preventing the rate of A.I.A. from affecting the timing of investment. The permanent increase will also assist those businesses investing heavily over a number of years.

Due to the elimination of the planned increase in Corporation Tax that was scheduled to be effective from April 1, 2023, the government announced that some amendments will be made to the enhanced allowances available to businesses, commonly known as the "super-deduction." The amendments will ensure that enhanced relief will operate as originally intended. No details have been provided on these amendments, but announcements worded in this way usually lead to the introduction of anti-avoidance provisions to counteract perceived abuse.

INVESTMENT ZONES

The Chancellor announced that investment zones would be created as quickly as possible. Businesses within investment zones will be able to benefit for a period of ten years from tax and other reliefs including

- 100% first year enhanced capital allowance relief for plant and machinery used within designated areas;
- accelerated Enhanced Structures and Buildings Allowance relief of 20% per year;
- 100% relief from business rates on newly occupied business premises and some existing businesses expanding into an Investment Zone;
- no stamp duty land tax on newly occupied commercial land and buildings and for land or buildings for new residential development;
- a zero rate for Employer National Insurance contributions for new employees working in the zone for at least 60% of their time, restricted to earnings up to £50,270 per year; and
- reduced regulation over planning applications.

ENTERPRISE INCENTIVES

A number of measures will be brought with effect from April 6, 2023, to help businesses raise investment capital and attract talent.

C.S.O.P.

A Company Share Option Plan ("C.S.O.P.") allows companies to grant options to employees in a tax efficient way. Companies can currently grant qualifying C.S.O.P. options over shares worth up to £30,000 to each eligible employee. This limit will be doubled to £60,000 from April 2023. As the limit has not been increased since the introduction of C.S.O.P.'s in 1995 this increase has been long-overdue and should help companies looking to incentivise employees.

In addition to the increase in the limit, the government has announced that some conditions that attach to the options will be removed from April 6, 2023.

S.E.I.S.

Seed Enterprise Investment Schemes ("S.E.I.S.") allow companies to raise up to £150,000 by way of an issue of shares that provide income tax relief to investors of up to 30% of the amount invested and the possibility to roll over capital gains up to the amount of the investment. This limit will be increased to £250,000 to allow qualifying companies to increase the amount that can be raised. There is also an annual limit on how much an individual can invest in S.E.I.S. shares. This limit has also been doubled to £200,000.

Currently, only companies with gross assets below £200,000 at the date of investment can raise funds under S.E.I.S. This limit will be increased to £350,000.

The two-year qualifying rule limiting the benefit to companies that have been trading for not more than two years will be increased to three years.

PERSONAL TAX CUTS

The Chancellor announced a number of cuts to personal tax rates:

- **Basic Rate of Income Tax.** The basic rate of income tax that applies to taxable income from £12,571 to £50,270 will be reduced from 20% to 19% with effect from April 6, 2023. This brings forward by one year the announcement made by the previous Chancellor. To avoid an impact on charities who benefit from the Gift Aid tax rebates, the reduction of the basic rate to 19% will be phased in over a four-year period to support charities.
- **Additional Rate of Income Tax.** The additional rate of income tax – meaning the top rate – currently applies to income of more than £150,000 per year. This top rate of tax would be abolished with effect from April 6, 2023. In addition, an allowance against savings income of £500 with be extended to top rate taxpayers.
- **Tax on Dividends.** The 1.25% increase in tax rates applying to dividend income that came into effect from April 6, 2022 will also be reversed from April 6, 2023.

The reversal of the increase in dividend tax rates, together with the abolition of the additional rate, creates an opportunity for tax planning. A dividend received by an individual with total gross income exceeding £150,000 will pay 6.85% less tax if the dividend is received after April 5, 2023. For these individuals, a brief deferral of dividends is beneficial. An individual making a contribution to a U.K. pension fund will receive tax relief at a rate of 45% if the contribution is made not later than April 5, 2023. A contribution after that date will receive tax relief of 40%. An acceleration of pension fund contributions will provide a greater immediate tax benefit.

The full detail of the changes are yet to be known and careful planning will be required to ensure no anti-avoidance measures apply.

NATIONAL INSURANCE

The Chancellor confirmed the reversal of the 1.25% increase in National Insurance (social security) contributions with effect from November 6, 2022 which had been announced a couple of days earlier. This was a temporary measure for the current tax year before it was replaced with the Health & Social Care Levy from April 6, 2023, which also has been reversed.

This is the third change in National Insurance this year and will present another challenge for payroll processors as employees look to see the reduction in their pay packets.

Individuals who are self-employed pay National Insurance with their income tax payments so will see a change in the rates they pay for the current tax year to 9.73% and 2.73%.

Employers will also benefit from the same reduction in employers' contributions. An employer may therefore wish to consider delaying bonuses or pay rises until after November 6 to reduce the cost to the business and increase net pay for employees.

Employers are also liable to pay National Insurance contributions on certain benefits provided to employees. For the current tax year only, a new rate of 14.53% is to be introduced to allow for the change in rates. This new rate will also apply to any Settlement Agreements.

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OFF-PAYROLL WORKING

The off-payroll working rules known as "I.R. 35" have been the source of a number of problems for contractors who have been caught by (i) a general lack of understanding of how the rules are applied and (ii) pressure from customers and some advisers. The rules apply where services are provided by an individual through a personal service company ("P.S.C."). In such circumstances, tax and National Insurance apply to the payments to the P.S.C. if the engagement was more in the nature of an employment rather than self-employment. This was a measure to counteract widespread noncompliance, as the responsibility for determining whether I.R. 35 applies was moved to the end-client in almost all cases. The client paying the P.S.C. is required to operate P.A.Y.E. and N.I.C.

The Chancellor announced the I.R. 35 position will be reversed from April 2023. The obligation for determining whether I.R. 35 will apply will therefore revert back to the individual contractor. While a large number of people are celebrating the abolition of I.R. 35 in the press and social media, I.R. 35 this the benefit of the rules change will extend only to the end-client. The rules remain in place for the P.W.C., and H.M.R.C. can be expected to apply the I.R. 35 rules where appropriate. It is easy to see that H.M.R.C. may challenge any contractor who currently suffers deductions from payments made by their customers, it the contractor fails to collect P.A.Y.E. and N.I.C. from April next year.

Even though responsibility for determining whether I.R. 35 applies will rest with the contractor, the customer should not forget the impact of the Criminal Finances Act 2017. This act introduced a corporate criminal offence for failing to prevent the facilitation of tax evasion by an employee or associate. A contractor providing services for or on behalf of the end customer falls within the definition of an associate. Consequently, it will be important for a business to have procedures in place to ensure that its contractors are complying with their tax obligations. Failure to do so may lead to an unlimited fine and a public record of conviction.

BANKERS' BONUSES

The Chancellor made much of the announcement to abolish E.U. rules that limit bonuses for senior bankers to 100% of their fixed pay, or 200% with shareholder approval. The government are of the view that eliminating the ceiling on bonuses will encourage talent to move to the U.K., by effectively remove the bank's obligation to pay higher base salaries.

STAMP DUTY LAND TAX

Stamp Duty Land Tax ("S.D.L.T.") applies on the purchase of real estate in the U.K. In a bid to encourage home ownership and residential home-building. The S.D.L.T. threshold for purchases of residential property in England and Northern Ireland has been increased to £250,000 for all buyers, and to £425,000 for first-time buyers. The threshold for the value of properties qualifying for the enhanced nil rate band for first-time buyers will be increased to £625,000. These measures came into effect from September 23, 2022. The measures do not apply in Scotland or Wales which have their own land transfer taxes.

The higher rates that apply to purchases of additional properties and purchases by non-residents remain unchanged.

TAX FEE SHOPPING

A V.A.T.-free shopping scheme will be introduced for tourists and other non-U.K. visitors to the U.K. This will allow a V.A.T. refund on goods bought in and then exported from the U.K. in personal baggage. The scheme will, effectively, replace a previous scheme which provided V.A.T. refunds to non-E.U. tourists. That scheme ceased once the U.K. left the European Union.

ALCOHOL DUTIES

Lastly, the new alcohol duty rules are to be deferred to allow businesses more time to make arrangements. In addition, some of the rules have been simplified. These measures will be welcomed by suppliers and customers.

CONCLUSIONS

It seems clear that the Government are keen to pursue a trickle-down approach with the biggest tax cuts going to large businesses and wealthy individuals. Whether those who benefit most will pass down those benefits through increased spending, investing, and employing, remains to be seen. What is clear, however, is that the markets, public, and analysts have largely responded negatively to the announcements. The prospect has been raised of sterling dropping to parity with the US dollar which may come during the Conservative Party's annual conference.

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It is known that Liz Truss is a great admirer of Margaret Thatcher and sees these policies as a return to Thatcherism. However, Margaret Thatcher did raise taxes initially and only made cuts when it was perceived the economy was in good shape. That would not seem the case at present with Liz Truss and her Chancellor funding the announcements through borrowing. With interest rates increasing that may prove to be unsustainable with much of the benefit received by the majority being more than wiped out by rising prices and interest payments. The growth plan would therefore seem to be a gamble and only time will tell whether it was work the risk.