UK AUTUMN STATEMENT | 25 NOVEMBER 2015

In the post-Election Summer Budget of July we were not expecting to receive any major surprises - and had several (mostly unpleasant ones!). Indeed non-doms, banks and the asset management industry came out rather bruised.

This Wednesday's Autumn Statement was by comparison surprise-free - the usual targets mentioned above emerging unscathed.

We therefore take this opportunity to provide a brief reminder of a few major changes already in the pipeline and now firmly on the horizon.

AUTUMN STATEMENT HIGHLIGHTS

A higher rate of stamp duty land tax will be charged on purchases of "additional" residential properties (the examples are given of buy-to-let properties and second homes) from 1 April 2016. The definition of "additional" is keenly awaited, particularly from the perspective of non-UK residents. The higher rates will be 3% above the current rates but will <u>not</u> apply to corporates or funds making "significant" investments in residential property; the suggestion is that a minimum of 15 residential properties may be an appropriate threshold.

Also on a stamp duty theme, the exercise of share options is in certain circumstances to be subject to a higher stamp duty rate of 1.5% (as opposed to the usual 0.5%) based on either their market value or the option strike price, whichever is higher. This is intended to target options with a strike price significantly below (for call options) or above (for put options) market value and will apply where share transfers are made to a clearance service or depositary receipt system following exercise of the option.

ON THE HORIZON

Non-doms

It was announced in the Summer Budget that one of the major attractions of the UK's tax regime for non-UK domiciled individuals ("non-doms") - the fact that a person may under current rules benefit from the non-dom regime indefinitely - will be abolished.

The new rules will mean that individuals who have been resident in the UK for 15 out of the previous 20 years will be deemed to be domiciled in the UK for all UK tax purposes.

After this point the benefits of the non-dom regime will no longer apply, with the consequence that the individual's worldwide income and gains will immediately fall within the scope of UK taxation.

The new rules will apply from 6 April 2017 regardless of the date of arrival in the UK (such that no special rules will apply to those already in the UK). Those for whom this could be relevant should start to plan ahead now if they have not already begun to do so.

Banks

Although the quantum and scope of the bank levy are gradually to be reduced, banks will have to deal from 1 January 2016 with a new corporation tax surcharge of 8%. Pre-January 2016 losses will not be capable of being used to reduce the charge. An annual allowance of £25m is available to groups and individual banking companies.

Asset management

The government has confirmed that new legislation will determine the tax treatment (income / capital gain) of asset managers' performance awards. An award will be subject to income tax unless the underlying fund undertakes long-term investment activity.

The government has made it clear that it considers private equity and venture capital activities to constitute long-term investments. Draft legislation will be published next month to define "long-term" and "short-term" investment.

The outcome for the hedge fund industry, however, is anticipated to be less favourable.

Restrictions on tax relief for financing costs

The government recently confirmed that it intends to implement the OECD's recommendation that countries introduce a structural restriction on tax relief for financing costs (where not already the case, as in Germany for example).

The main element of this involves a restriction based on a fixed ratio of EBITDA.

The rules will not apply to banks or insurance companies (an alternative proposal is expected to be put forward for those sectors in due course), and will not be implemented in the UK before April 2017 at the earliest.

Amongst other things it will be interesting to see how the new regime interacts with existing restrictions on interest deductibility, in particular the UK's "debt cap", which may be repealed as a result.

CONTACTS

DAVID KLASS
david.klass@gide.com
tel. +44 (0)20 7382 5552

SALLY FILDES
sally.fildes@gide.com
tel. +44 (0)20 7382 5602