LET THE GAMES COMMENCE

MARCH 2024

BUDGET BRIEFING

In a General Election year, in what was probably the Chancellor's last Budget, Jeremy Hunt decided to go out with a flourish by presenting a nakedly political Budget that simultaneously cut taxes as a pre-election enticement to voters, and introduced a major reform to the tax system, a policy that he took from the opposition Labour party.

The tax cuts included a 2% reduction in the rate of National Insurance Contributions for employees and the self-employed; and a 4% cut in the higher rate of Capital Gains Tax for residential property disposals from 28% to 24%, both applying from 6 April 2024; as well as raising the child benefit tax threshold.

The major bombshell was the abolition of the 200-year-old non-domicile and remittance basis regime from 6 April 2025, its replacement with a new, curtailed regime based on UK residence, and the introduction of complex transitional rules for existing non-domiciles and trusts.

Other revenue-raising reforms included the abolition of the Furnished Holiday Lettings tax regime from 6 April 2025, and the abolition of Multiple Dwellings Relief for Stamp Duty Land Tax from 1 June 2024.

The new UK residence-based regime will apply for individuals newly arriving in the UK from 6 April 2025, who may claim not to pay UK tax on any foreign income and gains arising in their first four years of tax residence, provided they have been non-tax resident for the previous 10 years.

There will also be a likely 10-year exemption period for UK Inheritance Tax for new arrivals, and a 10-year Inheritance Tax 'tail-provision' for leavers, much longer than the 'tail' under current rules.

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The new position for existing long-term UK resident, non-domiciled, individuals, can be summarised as follows:

- In tax year 2025/26 only, there will be a 50% reduction in the amount of foreign income subject to UK Income Tax. However, from 6 April 2026 onwards, foreign income will be fully subject to UK Income Tax;

- Foreign gains will be fully subject to UK Capital Gains Tax from 6 April 2025 onwards. However, personally held foreign assets can be re-based to their 5 April 2019 market value if they were held on that date, which will help shelter some gains from tax;

- Foreign income and gains arising in offshore protected settlements will remain protected until 6 April 2025, but will become fully subject to UK tax on the settlor thereafter;

- Unremitted foreign income and gains that arose before 6 April 2025 will be remittable to the UK after that date until 5 April 2027 at a special 'low' tax rate of 12%; and

- Non-UK property that is settled into an offshore trust by a non-UK domiciled settlor before 6 April 2025 will continue to be outside of the UK Inheritance Tax net under the new regime.

The new regime is projected to raise around £3,000 million of tax annually. Unfortunately, the Leader of the Opposition, Sir Keir Starmer, and the shadow chancellor, Rachel Reeves, had already set aside this money to fund the major part of Labour's spending plans for government. It must therefore have been a bitter blow for them to see Mr Hunt instead use the money to pay for giveaway tax cuts, and further aggravated by Mr Hunt insulting Mr Starmer in his lively speech by saying that he needed "to lose a few pounds", and accusing Ms Reeves of "acting like a Tory".

However, the raised political temperature in this General Election year, and the fact that the non-domicile reforms will not take effect until after a likely Labour government takes power, means that it cannot be taken for granted that these rules will be enacted in precisely the way set out by Mr Hunt today. The next move is Labour's.

A. NON-DOMICILE TAXATION

The New Foreign Income And Gains (FIG) Regime

The UK has been a nation that many non-UK domiciled individuals have called home for periods of their lives. In recent years there has been much speculation in respect of the future of the "non-dom" regime, culminating in today's Budget, with a whole spectrum of possibilities mooted in the professional industry as to how the time-old remittance basis regime could be reformed. The changes announced today will not have come as a complete surprise to advisers, given Labour's announcement in 2022 that they had planned to scrap the current non-dom regime if they came into power. However, Jeremy Hunt's announcement was a pre-emptive strike to Labour's plans in what appears to be a political move to neutralise the Opposition's threat.

The aspect that has been a surprise is just how elaborate and technically detailed Mr Hunt's tax changes are. It is clear that the current Government must have been planning this move for some time. Although, it still remains to be seen whether the current Government remains in power at the time the rules are introduced, and if not, what amendments, if any, an incoming Labour Government may make to the new rules before they are enacted into legislation.

According to HM Treasury's policy papers issued today, the concept of "domicile" is now considered outdated for the purposes of Income Tax and Capital Gains Tax. Its removal will nonetheless have a significant impact for non-doms already living in the UK.

Firstly, the current remittance basis regime will continue to be accessible for non-dom residents up to and including the 2024/25 tax year.

Then, the current remittance basis regime will no longer be available to individuals with effect from 6 April 2025.

The current rules will instead be replaced by a regime whereby individuals arriving in the UK may make a claim to apply a new “foreign income and gains” (“FIG”) regime for their first four tax years as a UK tax resident, but only if they have been non-UK resident for a period of at least 10 consecutive tax years prior. The FIG regime will apply to all individuals who meet the criteria, irrespective of their domicile status under general law.

Claims to use this new FIG regime will need to be made for each year to which it is to apply. There will be no annual charge payable in order to claim this new basis of assessment to tax, but entitlement to personal allowances and the Capital Gains Tax annual exempt amount will be lost as a result of being subject to tax under the FIG regime (mirroring the current remittance basis rules).

Individuals who claim to be taxed on the new FIG regime will not be subject to UK tax on their foreign income and gains, nor distributions or benefits received from non-UK resident trusts (though subject to a modified onward gift rule), and they will be able to bring or use these foreign funds in the UK without any of the remittance consequences that would apply under the current remittance basis rules. Therefore, under the new regime, individuals will not need to track the movement of their foreign income or gains through non-UK accounts and investments, as with the complex set of rules applicable to the current regime.

Individuals who do not qualify for the FIG regime will be taxed on a worldwide arising basis.

Individuals Currently Living In The UK

Existing UK residents who have not yet completed 4 years of residence may choose to enter into the new FIG regime for the remainder of their first 4 years of residence, provided that they also meet the condition of having been non-UK resident for 10 years prior to their arrival.

Existing UK resident non-doms who do not qualify to enter the FIG regime will move directly into worldwide taxation, on the same basis as UK domiciled residents under current rules. Therefore, existing non-doms who have already been UK tax resident for more than 4 years will, from 6 April 2025, lose Income Tax and Capital Gains Tax protections on foreign sources of income and gains which they had previously been afforded under the remittance basis regime. This will include being taxed on income and gains that arise to trusts (whenever established) that they have settled. It is presumed that motive defence exemptions will continue but this is to be confirmed. However, it is expressly stated that income and gains that have arisen to offshore trusts pre-6 April 2025 will continue to be matched under current rules.

Recognising the impact on those individuals, the Government has introduced some transitional provisions which aim to provide some relief to longer-term UK tax resident individuals who have previously relied on the remittance basis:

The first of those reliefs is that for the 2025/26 tax year only (i.e. the first year of the new rules), individuals who previously claimed the remittance basis of taxation and are not eligible for the new FIG regime will only be subject to Income Tax on 50% of their foreign income for that tax year. The reduction will not, however, apply to foreign capital gains. We await further specifics on this.

The second relief provides for individuals who have previously claimed the remittance basis of taxation and are not eligible for the FIG regime to benefit from a revaluation of their assets for Capital Gains Tax purposes. When such individuals make a disposal of personally held foreign assets after 5 April 2025, they will be able to rebase such assets to their 5 April 2019 value provided that the asset was held personally at that date and they remained non-UK domiciled and not deemed UK domiciled up to 5 April 2025. This is similar to the rebasing which was made available to individuals in April 2017, when the concept of "deemed domicile" was introduced for Income Tax and Capital Gains Tax purposes, though further conditions are due to be published later. Valuations of foreign assets available for the rebasing will need to be sought at the earliest available opportunity once the full conditions are known.

The final relief provides that former remittance basis users will be able to elect to pay a reduced 12% tax rate on the remittance of personal foreign income and gains that arose prior to 5 April 2025 and were protected by the remittance basis of taxation, provided that the remittance of such funds is in either the 2025/26 or 2026/27 tax years. This relief, dubbed the Temporary Repatriation Facility (TRF), may provide a useful tool for individuals who have retained significant foreign income and gains outside the UK and wish to bring the funds to the UK to either spend or invest in the UK and would have otherwise been subject to tax on a remittance of the funds at up to 45%. It is said that there will be some relaxation of the existing complex and sometimes unwieldy mixed fund ordering rules, in order to facilitate the use of the TRF. The 12% rate will categorically not apply to foreign income and gains generated within trust structures, however.

After 5 April 2027, the tax rate will return to the normal rates for remittances of pre-6 April 2025 foreign income and capital gains.

Notwithstanding, Business Investment Relief (BIR), which currently allows remittances of foreign income and gains to be exempted from tax where qualifying investments are made into unlisted UK trading companies, will continue to be available under the new regime for qualifying investments that are made using pre-6 April 2025 foreign income or gains.

Prospective UK Tax Residents

The FIG regime will only be available to individuals newly arriving in the UK who become tax resident after a period of 10 tax years of non-UK residence. The existing Statutory Residence Test will be used to determine tax residence for any one tax year. It should be noted that residence status that is determined by reference to the terms of a tax treaty between the UK and another jurisdiction will not be considered, for the purposes of establishing eligibility for the FIG regime, and the 'split year' rules (that form part of the Statutory Residence Test) are also disregarded for these purposes.

For individuals who are planning to move to the UK and/or spend a greater amount of time in the UK after 5 April 2025, due consideration will need to be given to whether they will become UK tax resident and eligible to claim the new FIG regime (and would benefit from doing so), for all or part of their initial four years of UK tax residence.

Eligibility for the new FIG regime may therefore necessitate a review of an individual's time spent in the UK, and their ties to the UK, going back as early as the 2012/13 tax year, for those that became UK tax resident during 2022/23 and would be eligible to claim the FIG regime for the 2025/26 tax year (being their fourth year of residence).

Overseas Workday Relief (OWR) will continue to be available for employees who perform duties outside the UK, are eligible for the new FIG regime, and make a claim for this basis of assessment to apply for the relevant tax years. As under current rules, OWR will only be available for the first 3 tax years of UK residence (not for all 4 years of the new FIG regime). Unlike the current rules, from 6 April 2025 onwards OWR will provide relief from Income Tax on earnings relating to work performed outside the UK irrespective of whether these earnings are brought to the UK or left offshore.

We will await further details including draft legislation and guidance to be released to provide specifics on the mechanics of the new regime, particularly in relation to the rebasing of foreign assets, the planned simplification of the mixed fund rules, and the interaction of the new rules with offshore trusts, as mentioned above.

Inheritance Tax And Trusts

As noted, the Chancellor announced that the current remittance basis regime for non-UK domiciled individuals will be abolished, and replaced by a new regime based on residence, from 6 April 2025. This presents particular difficulties for Inheritance Tax (IHT), where the charge is based on domicile and the location of assets. Accordingly, the Chancellor has announced that the new rules for IHT will be subject to consultation, with no changes before 6 April 2025.

Domicile is, broadly speaking, the country or state which is considered to be the individual's true or permanent home. At present, individuals who are domiciled outside the UK, and trusts created by them, are in certain circumstances not subject to IHT on assets situated outside the UK; these assets are 'excluded property' for IHT.

Individuals with a foreign domicile may therefore have an opportunity to create an excluded property trust before 6 April 2025, which will not be subject to IHT even under the new residence-based rules (provided that no additions are made).

It is worth noting that, with some limited exceptions, UK assets are currently always subject to IHT, whether held personally or in a trust; this will not change under the new regime.

The current position, and the proposed new regime, can be summarised as follows.

The Current Position – Property Owned Outright

Individuals who are UK domiciled, or 'deemed UK domiciled', or a 'formerly domiciled resident', are subject to IHT on their worldwide assets.

An individual is deemed to be UK domiciled after they have been UK resident for 15 out of the last 20 years. Where an individual leaves the UK and ceases to be resident, the deemed domicile will remain until the fourth year of non-UK residence. An individual will also be deemed UK domiciled for three years after a UK domicile is lost.

A formerly domiciled resident is an individual with a UK domicile of origin who was born in the UK, is resident here, and was also resident for one of the last two tax years.

Subject these rules, if an individual is non-UK domiciled, he is subject to IHT only on UK assets, which includes UK residential property held through foreign companies or partnerships.

The Current Position – Property Held In Trust

For trusts, liability to IHT is based on the situs of the assets and the domicile of the settlor at the time the assets were added to the trust.

If the settlor was UK domiciled, or deemed to be, at the time he created the trust, all of its assets will be subject to IHT. Otherwise, if property is settled by a non-UK domiciled individual, foreign assets will be outside the scope of IHT, as excluded property, unless, as noted above, the settlor is a formerly domiciled resident when the tax charge arises, or the asset is an interest in UK residential property held via a foreign entity.

Generally, when IHT on trust assets is payable, it is charged on each ten year anniversary of the trust's creation, or when trust capital is distributed (the exit charge).

From 6 April 2025 – Property Owned Outright

The Government envisages that IHT will be charged on worldwide assets once an individual has been UK resident for ten years (the residence criterion), with provision for that individual to remain liable to IHT for ten years after leaving the UK (the tail provision). This is subject to consultation on various points including connecting factors other than residence, gifts with reservation of benefit, and domicile elections.

From 6 April 2025 – Property Held In Trust

In the case of trusts, the intention is that the new rules for chargeability to IHT will be based on whether the settlor meets the residence criterion or is within the tail provision. Thus there would be an IHT charge if the settlor meets either of these two tests when the trust is created, or on the occasion of a ten year anniversary of the trust, or an exit charge event. This is subject to consultation on further criteria such as other connecting factors, and the calculation of trust IHT charges.

As indicated above, the treatment of non-UK assets settled by a non-UK domiciled settlor before 6 April 2025 will not change. There may therefore be an opportunity for these individuals to create a trust which will provide permanent protection from IHT, and with the ability for them to benefit from the trust in the future.

B. PERSONAL TAXATION

Further Cuts To National Insurance Contributions (NICs)

Following on from the cuts made to NICs in the Autumn Statement 2023, the Chancellor stuck to his tactics and provided a further 2p reduction to the main rates of NIC for both the employed and self-employed from 6 April 2024.

Employees

Class I (Primary) NICs are reduced from 10% to 8% from 6 April 2024 at the main rate on earnings between £12,570 and £50,270 per annum. As a reminder, the rate was as high as 13.25% between 6 April 2022 to 5 November 2022, then reduced to 12% from 6 November 2022, and to 10% as recently as 6 January 2024.

The further reduction to 8% from 6 April 2024 is expected to save £450 per year for the average worker earning £35,400. The Government has been keen to point out that this measure, together with the reduction in rates in the previous Autumn Statement, amounts to the largest ever cut to employee and self-employed NICs, resulting in a tax cut of over £900 per year for the average earner, and that the personal taxes paid as a proportion of income in 2024/25 will be the lowest they have been since 1975, since the introduction of National Insurance as we currently know it.

However, earnings in excess of £50,270 remain assessable to NICs at 2%. This, together with the stagnant position in respect of Income Tax rates and bandings, means that higher earners are not likely to notice any tangible benefit especially as salaries rise, more or less, in line with inflation.

The anticipated impact of the cut is expected to be £9.360 billion in 2024/25.

The Self-Employed

A similar reduction will be advanced to self-employed individuals, reducing the rate of Class 4 NICs from 8% to 6% with effect from 6 April 2024, with anticipated savings of around £650 a year for the average self-employed person when taken into account with the proposed abolishment of Class 2 NICs from the next tax year.

The measure is anticipated to cost the Exchequer £710 million in 2024/25, with the consultation for the abolishment of Class 2 NICs anticipated to take place later this year.

NICs therefore still remain the current Government's tax of choice for giving back to the working taxpayers.

The Higher Income Child Benefit Charge

The Higher Income Child Benefit Charge ("HICBC") has often caught out unsuspecting taxpayers. Currently, the child benefit of £24 a week for the first child, and £15.90 a week for subsequent children, is clawed back where the adjusted net income (broadly total income less gross charitable donations made with Gift Aid and gross pension contributions) of either parent exceeds £50,000. The HICBC is levied on the parent earning £50,000 or more.

For every £100 of adjusted net income in excess of £50,000, 1% of the child benefit is clawed back in the form the HICBC, with the full amount of child benefit being claimed back once adjusted net income is £60,000 or more.

This has always seemed unjust where one parent earns in excess of £50,000 whilst the other parent earns nothing, with such a situation meaning that the higher earner is subject to the HICBC. Contrast this with the situation where both parents are earning less than £50,000 each per annum, in which case no clawback applies.

The Chancellor has announced that from April 2024, the threshold at which the HICBC will be charged rises to £60,000, and the rate at which the clawback applies is being halved, so that for every £200 of adjusted net income in excess of £60,000, 1% is clawed back. This means that child benefit is fully withdrawn once adjusted net income is £80,000 or more.

The measure is anticipated to cost the Government £540 million in 2024/25.

The policy is intended to support the average family with the costs of having children. However, until the charge applies equally depending on household income as a whole, and not based on whether one parent exceeds the threshold for the clawback, it is difficult to see how the current proposal will improve the lives of the average working family, especially since the cost of childcare in the UK is amongst one of the highest of developed economies according to some studies.

In recognition of this, the Government has said they will reform HICBC by April 2026 so that the charge is based on household income as a whole. Whether they remain in power by then is yet to be seen.

Amendment To The Transfer Of Assets Abroad Provisions

Background

The transfer of assets abroad (TOAA) provisions are designed to prevent UK tax resident individuals from avoiding UK tax by transferring assets abroad, such that income arises (as a result of that transfer) to the person abroad who is not within the scope of UK tax

Broadly, the rules apply when there has been a relevant transfer/transaction or an associated operation. A relevant transfer is defined in the legalisation where this is a transfer of assets and as a result of that transfer, and/or one or more 'associated operations', income becomes payable to a person abroad. The associated operation is defined as an operation of any kind in relation to the asset transferred, any other asset derived from the asset transferred or income arising from the aforementioned assets. The associated operation has a wider scope and potentially catches income arising directly or indirectly as a result of the relevant transfer.

There are three categories of Income Tax charges which can potentially apply in the following three scenarios:

1. Transferor has power to enjoy income from assets abroad – this charge applies to a UK resident individual if they have the power of to enjoy income of a person abroad which would have arisen to that individual if they had not made the transfer.

2. Transferor receives capital sums from assets abroad – this limb of the legislation is designed to catch the arrangements which avoid a charge to Income Tax under the first part e.g. the amount arising to a person abroad is not income but capital and the transferor has received a capital sum from the person abroad.

3. A non-transferor receives benefits from the person abroad – this charge further widens the scope of the TOAA provisions by imposing a charge to a UK resident individual when they receive a benefit (whether in cash or non-cash form) from a person aboard.

There is a so-called 'motive defence' which can apply where the purpose of avoiding liability to taxation was not the purpose, or one of the purposes, in connection with the relevant transfer; or where the relevant transfer occurred for genuine commercial reasons and not to avoid UK tax. There is also an EU exemption against the TOAA provisions where it can be stated that applying these provisions would be an infringement of the rights granted under the laws of the European Union, though it is not entirely clear whether the EU exemption still applies with respect to transfers made after Brexit.

The Concept of a Quasi-Transferor

There have been a number of court cases where it has been discussed in length whether the TOAA provisions only apply to the person who made the transfer or whether they also catch scenarios where the individual did not personally make the transfer but they can still be subject to the charge on the basis that they procured the transfer. One of these cases is the long-running Fisher case which was initially heard in the First Tier Tribunal in 2014.

The Fisher case relates to a UK family which owned a UK company. For various commercial and other reasons, they set up a company in Gibraltar which imposed lower betting duty rates as compared with the rates in the UK. The business of an existing UK company was largely transferred to this new company in Gibraltar. HMRC contended that setting up the company in Gibraltar falls within the TOAA provisions on the basis that the UK resident individuals procured the transfer of the business, by the UK company, that gave rise to the income of the person abroad (the Gibraltar company), therefore the income arising within the company in Gibraltar should be taxed on the UK resident individuals based on their interest in the Gibraltar company.

The Court of Appeal held that the shareholders who were actively involved in the business are the transferors, but the Court concluded that the shareholder not involved in the business at all should not be treated as a transferor. The Court of Appeal also acknowledged that the legislation is not limited to imposing a charge only on transferors and that Parliament can be expected to have intended that the provision should be capable of applying to an individual who procured a transfer without themselves executing it.

However, the Supreme Court recently passed the judgement that the Fisher family was not to be regarded as the transferors. The Supreme Court held that the TOAA rules only apply to the individual who made the transfer and refused to accept that simply because the Fisher family collectively owned the controlling interest in the UK company, that this meant that they could be treated as the transferors of the assets. This meant that the Supreme Court largely refused to accept that the TOAA provisions could apply to anyone who might be termed a 'quasi transferor' who procured a transfer to be made by another person.

Changes to the TOAA provisions in the 2024 Budget

In response to the Fisher decision, the UK Government has responded by widening the scope of the TOAA provisions from 6 April 2024, for the purpose of preventing the avoidance of a liability to tax where an asset has been transferred by a closely-held company. The transfer will now be treated as being made by an individual with a qualifying interest in the company, where the individual will have the power to enjoy the income arising abroad. New provisions will also apply to a transfer made by a closely-held company such that it will be treated as being made by an individual with a qualifying interest, where the individual will have received a capital sum as a result of the relevant transfer.

One would infer that the purpose of these new provisions is to remove the uncertainty on establishing the identity of quasi-transferors following the Supreme Court decision in the Fisher case. Broadly, a closely-held company is a privately owned company that is under the control of 5 or fewer participators, or under the control of participators who are also directors.

It is currently unclear what constitutes a qualifying interest in a closely-held company and the mechanism through which the income of a person abroad (i.e. the company) would be apportioned to the shareholders. Based on the position HMRC initially took in the Fisher case, it is probable that the income could be taxed on UK resident shareholders based on their interest in the UK company which made the transfer, or based on their interest in the non-UK company which is the recipient of the relevant transfer. It is also expected that the motive defence (briefly explained above), where it applies, would continue to apply with respect to relevant transfers made by a closely-held company.

Additionally, the current TOAA provisions require that one must be able to identify the amount of income which arises to the person abroad as a result of a relevant transfer. If that identification is not possible then the Income Tax charges cannot usually apply. This implies that where a transfer is made by a closely-held company but the income arising as a result of that transfer cannot be identified/calculated, there may not be a charge to Income Tax under the TOAA provisions. This could, for example, happen when a closely-held company makes an investment in another company but the income of the recipient company cannot be attributed to the transfer made by the closely-held investor company.

C. PROPERTY TAXATION

Furnished Holiday Lettings (FHL)

The Chancellor announced that the FHL tax regime would be abolished from 6 April 2025. This move aims to eliminate the tax incentives for short term holiday lettings compared to longer term residential lettings; and therefore make local housing more accessible for would-be renters.

These tax incentives, along perhaps with the popularity of online short-term lettings platforms, were seen to be distorting the residential rental markets and availability of property in a number of places. This comes against a backdrop of several tax measures in recent years which were designed to discourage buy-to-lets and high interest rates affecting landlords.

Properties which qualify as FHLs presently benefit from generous tax measures, which are not available in respect of other residential property letting businesses.

The tax advantages available for FHLs include the availability of capital allowances (not usually available for residential property) and full Income Tax relief for mortgage interest. Further, gains on the disposal of a FHL could qualify for Roll over Relief or Business Asset Disposal Relief, which would allow for a 10% rate of tax on the first £1 million of gains.

Amongst other conditions, FHLs must not normally be let to the same person for more than 31 consecutive days, which therefore encourages short-term letting.

Draft legislation and guidance has not been published, so it remains to be seen as to whether there will be any transitional arrangements.

Cut In The Rate Of Capital Gains Tax On Residential property

As mentioned by the Chancellor in his speech, the Laffer curve is a concept in economics such that taxes act as a disincentive to economic activity, and in theory a lower tax rate will increase transactions and activity. In essence a smaller slice of a larger pie will be bigger than a larger slice of a smaller pie. To help practitioners of this dismal science, the Chancellor has put in an experiment dealing with a single asset class, UK residential property.

The Chancellor therefore announced that from 6 April 2024 the higher rate of tax on the disposal of UK residential property will be reduced from 28% to 24% in order to "incentivise earlier disposals of second homes, buy-to-let property…". The basic rate of tax will remain at 18%.

Stamp Duty Land Tax (SDLT) – RIP MDR!

It has spawned an industry, and given rise to headlines in the national press about "granny annexes", but more than two years after a consultation paper was published on possible reforms, it was announced in the Budget today that multiple dwellings relief ("MDR") would finally be abolished from 1 June 2024.

This much cherished relief reduces the amount of SDLT payable where a purchaser acquires more than one dwelling in a single transaction, and various other requirements are met.

Effectively, where MDR applies, the SDLT is calculated on the average price of each dwelling (regardless of the relative value of each dwelling), and then the SDLT liability for the whole transaction calculated by multiplying the SDLT on the average by the number of dwellings.

However, following consultation, and an external "evaluation", the Government surprisingly concluded that MDR no longer achieves its original aims cost-effectively, and so has consigned it to the legislative "scrap heap". Interestingly, this was not one of the options put forward in the consultation document.

MDR will be abolished from 1 June 2024 for transactions which complete or are substantially performed on or after 1 June 2024. MDR will however continue to be available beyond 1 June 2024 where contracts were exchanged before 6 March 2024 provided the contract is not varied after that date. The end of an era.

SDLT Mixed Property - Still Standing!

At the same time as the consultation on MDR, the Government also consulted on the SDLT treatment of so-called "mixed" property purchases. Broadly these are transactions which involve both residential and non-residential property.

Where a transaction is classed as "mixed" the SDLT liability is calculated at the non-residential, rather than residential SDLT rates. This generally means the SDLT liability is lower, particularly where the 3% surcharge for additional residential properties and / or the 2% surcharge for purchases by non-residents would otherwise apply (since these surcharges do not apply to non-residential or mixed property purchases).

The terms "residential" and "non-residential" are not tightly defined in the legislation, and hence are open to interpretation. As a result, the application of the mixed property rules has been the subject of a number of Tribunal cases, and HMRC have taken an increasingly hard line on how the rules should be interpreted in such cases.

However, following the consultation which commenced in November 2021, it was announced today that there will be no changes to the current rules.

Although this announcement will no doubt be welcome for those who are intending to purchase property with a non-residential element, it does not provide any further clarity on the definitions of residential and non-residential property. As a result, given that the SDLT liability can vary dramatically depending on which SDLT regime applies, further cases will almost certainly make their way through the courts in the future.

D. BUSINESS TAXATION

VAT

The VAT registration threshold will increase from £85,000 to £90,000, and the deregistration threshold will increase from £83,000 to £88,000, from 1 April 2024.

The government commented that it will review the OBR's findings on the VAT retail export scheme, which prior to its abolition in January 2021, enabled non-EU visitors to reclaim UK VAT from participating stores.

Creative And Cultural Sector Tax Reliefs

The Chancellor reiterated the importance of the creative and cultural sectors to the UK and announced new tax reliefs and increases in generosity to existing tax reliefs.

Audio-Visual Expenditure Credit (AVEC)

Following consultation after the 2023 Autumn Statement and industry lobbying, the Chancellor has announced that from April 2025, the credit rate for visual effects in film and high end television will increase to 39% from April 2025, and the 80% cap on qualifying expenditure for visual effects costs will be removed so that claims can be made on 100% of qualifying expenditure.

UK Independent Films

A UK independent film tax credit will be introduced within the AVEC framework, in respect of expenditure incurred after 1 April 2024 (where principal photography also commenced after this date). The rate will be 53% on qualifying film production expenditure, and will be available for films with budgets under £15 million.

Theatre Tax Relief, Orchestra Tax Relief and Museums & Galleries Exhibitions Tax Relief (MGETR)

From 1 April 2025, the rates for these reliefs will be permanently set at 40% for non-touring productions, and 45% for touring productions and orchestras. This makes the currently available tax reliefs permanent.

Administration And Tax Industry Standards

The Government is increasing HMRC's capacity to tackle non-compliance and collect outstanding tax debts from individuals and businesses.

HMRC will establish an expert advisory panel to support the administration of R&D tax reliefs, to ensure that HMRC remains up to date on R&D, particularly within the tech and life science industries. Such expertise is welcomed, although no doubt will result in increased scrutiny of R&D tax relief claims with more enquiries, although hopefully swifter resolutions with input from the expert advisory panel.

Currently, tax advisors do not need to be a member of a professional body to provide tax advice, although, like Rawlinson & Hunter, most advisors are members. However, the Government considers that with no mandatory regulatory oversight, there is persistent substandard tax advice leading to higher levels of non-compliance and loss of trust in the tax system.

With the objective of raising standards, the Government is consulting on strengthening the regulatory framework within the tax advisory market, in order to increase taxpayer protections against incompetent or unscrupulous advisors, to drive up standards within the industry and provide greater transparency for taxpayers.

A British ISA

In an effort to increase investment in UK companies, the Chancellor announced a consultation on introducing a "UK ISA" annual allowance of £5,000, which will be in addition to the current £20,000 annual subscription limits. The objective of the consultation is to support investments into all UK companies from small AIM listed companies to large LSE listed companies.

The consultation document asks a number of key questions such as:

- How to define a British company given that some are international in nature?
- What type of investments are allowable; just shares or bonds and gilts?
- The easiest way to handle transfers into and out of the British ISA?

This initiative represents a potentially significant boost to the UK stock market.

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BUDGET BRIEFING

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