BUDGET BRIEFING

OCTOBER 2021

A POST-PANDEMIC BUDGET...?

This was the Chancellor Rishi Sunak's first 'post-pandemic' Budget in which he referred to COVID-19 in the past tense, notwithstanding that he was flanked by senior ministers wearing face masks for the first time in months, and the Leader of the Opposition was absent after a positive Covid test.

In fact, the detailed Budget papers reveal that the Government has assumed that the pandemic as a fiscal event (the largest since the Second World War) is now over, with no further lockdowns or furlough schemes budgeted for. The Government now expects that the country will go through a period of high economic growth – with a predicted 6.5% GDP growth this year (the highest since 1973) and 6% next – while also suffering rising inflation of at least 4% (the highest since 1991).

The Chancellor's strategy over the past "extraordinary 18 months" has been to provide massive financial support to businesses and employees impacted by the pandemic, to then help engineer a rapid post-pandemic economic recovery, and to then rely on large tax rises to pay for the pandemic financial support once the recovery is well established. The Chancellor considers that the country has now moved into the economic recovery phase, and the aforementioned large tax rises are therefore scheduled to begin to take effect from April next year.

These tax rises, which were all announced previously and were either glossed over or not mentioned in his Budget speech, are the 1.25% increase from April 2022 in the rates of employees' National Insurance Contributions (NICs), employers' NICs and dividend income tax; the freezing from April 2022 of income tax and capital gains tax thresholds and allowances; and the 6% increase from April 2023 in the rate of corporation tax. Taken together, these tax rises will amount to over £49 billion per year by 2025/26, which the Chancellor admits will mean that taxes will be at "the highest level as a percentage of GDP since the (early) 1950s", before adding "I don't like it, but I cannot apologise for it."

There was confirmation in the Budget of another new property tax: a residential property developers' corporation tax surcharge of 4% on profits in excess of £25 million, as well as a corporation tax surcharge of 3% on banking profits in excess of £100 million. This means that from 2023 most companies will pay 25% corporation tax on profits, but large banks will pay 28%, and large residential property developers will pay 29%.

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Further tax measures announced included extending the deadline for reporting and paying capital gains tax on the disposal of UK residential property from 30 days to 60 days; amending the R&D tax relief from April 2023 to deny relief for R&D carried out overseas and to permit data and cloud costs to qualify for the relief; extending the £1 million Annual Investment Allowance for companies until 31 March 2023; and consulting on the possibility of permitting overseas companies to 're-domicile' themselves in the UK.

A key feature of the Chancellor's fiscal strategy was the implementation of broad-based tax rises over a wide swathe of the working population, rather than just over the wealthy. He has done this presumably because it was concluded that this was the only way to raise large amounts of tax. There are, however, two significant impacts arising from this strategy.

Firstly, it has enabled him to resist the urge to introduce the populist tax rises on the wealthy that some commentators had suggested. So there was no increase in the rates of capital gains tax nor inheritance tax, no cuts to pensions tax relief, and no announcement of a wealth tax.

The second significant impact is that broad-based tax rises may exacerbate the 'cost of living' crisis that is beginning to play out with ordinary working families. Not only do these families face a double whammy of tax rises from next April of an NICs hike and an income tax threshold and allowance freeze, but general price inflation is also due to increase to at least 4%, and energy bills are nearly doubling for many households as they leave fixed-rate tariff deals, something which the Chancellor disclaimed responsibility for by blaming "global forces" which are "not possible for us to address on our own".

Against the backdrop of this cost of living crisis, the Chancellor cancelled the proposed increase in petrol duty, and increased the national minimum wage by 6.6% from next April, which is likely to trigger further pay rise pressure from those earning considerably more than the minimum wage. Perhaps he hopes that his policies will cause wage rises that will cushion the cost of living increases, while helpfully raising further taxes for the Exchequer?

If so, then he ought to consider the last occasion when GDP growth exceeded 6% during the short-lived 'Barber Boom' in 1973 (Anthony Barber was the Conservative Party Chancellor at that time) in which the Government's policies unintentionally triggered high wage and price inflation, and ended in a spectacular bust after the UK's first Energy Crisis struck in October 1973 (when the price of oil quadrupled), leading to long queues at petrol stations, a statutory wage freeze for all employees, the Three-Day Week, widespread strike action and blackouts over Christmas. The historical parallels here are worrying.

The Chancellor ended his speech with a volte face by stating that "my goal is to reduce taxes by the end of this Parliament", perhaps with an eye on the next General Election and engineering a pre-election, voter-friendly, tax giveaway? Whatever the truth, it is clearly much easier to announce a future tax cut after you have unapologetically increased the country's annual tax base by £49,000,000,000.

PERSONAL AND EMPLOYMENT TAXES

Personal tax rises were completely absent from the Budget, which no doubt will come as welcome relief to many. The tax rises anticipated by some commentators, such as an increase in CGT rates, or further restrictions to pensions tax relief, or even a wealth tax, never came. It should, however, not be forgotten that the Chancellor in March and the Prime Minister in September had already announced two very large personal tax rises as set out below.

Freezing Of Tax Allowances And Bands

As announced in the March 2021 Budget, the income tax personal allowance and basic rate limit will remain at their 2021/22 levels, up to and including the 2025/26 tax year.

The 'frozen' income tax personal allowance will therefore be £12,570, and the 'frozen' basic rate limit will be at £37,700 for five consecutive tax years. Individuals will therefore pay tax at the higher rate (40%) income tax on income in excess of £50,270, with the additional rate (45%) threshold remaining frozen at £150,000.

When the announcement was made, this measure was forecast to generate tax revenues of just under £1.6 billion in 2022/23, rising to just over £8 billion in 2025/26. As a result of the more bullish UK growth forecasts recently published, these anticipated additional revenues have increased to £2.7 billion in 2022/23, rising to £13 billion in 2025/26.

Whilst the freezing of the income tax personal allowance and basic rate threshold may not be seen by taxpayers as a rise in taxes, the predicted levels of inflation (the highest since 1991) will see a significant rise in the cost of living. Without a corresponding inflationary rise in the income tax personal allowance and basic rate threshold, taxpayers will, in fact, be worse off year-on-year in real terms, without an increase in their pay.

Health and Social Care Levy: Dividend Tax and NIC Increases

A month before the Budget, Boris Johnson announced a 1.25% increase to the rates of income tax on dividends and National Insurance Contributions (NICs), with effect from April 2022.

The rise in NICs impacts both employees and the self-employed, but bites doubly on employment earnings – with the employer and employee each facing the 1.25% levy.

The increase in dividend tax rates, which will bring the top rate of income tax on dividends to 39.35%, will affect the shareholders of owner-managed businesses and wider investors alike. In contrast, the NIC increases – which officially passed into law one week before the Budget in The Health and Social Care Levy Act – will be borne directly by workers and employers.

Pension Taxes

Despite the Government acknowledging the importance of everyone being able to build up sufficient savings for their retirement, and the significant amount it provides for pensions tax relief (£60 billion annually), this Budget for once did not include any measures which will have meaningful consequences for the way the pension system works.

It should be noted that higher rate taxpayers who contribute into 'relief at source' schemes can continue to claim additional income tax relief (i.e. above the basic rate tax reclaimed by the pension provider) via their tax returns, and that no changes to the pension lifetime allowance (currently £1,073,100, frozen until 2025/26) or tax-free lump sum provisions were proposed.

Measures are, however, proposed to increase the earliest age at which most pension savers can access their pensions without incurring an unauthorised payments tax charge, from 55 to 57. This will take effect from 6 April 2028.

Employment Taxes

At the height of the COVID-19 pandemic, and with specialist equipment in very short supply, the Government tried to persuade certain companies to manufacture more medical ventilators at short notice.

Some of these companies (reportedly including Dyson) were reluctant to assist because it would have involved bringing overseas workers into the UK tax net. In response, the Government introduced new temporary legislation to exempt certain types of payments and benefits to such workers. However, the mechanism to do so was cumbersome.

To deal with any future such national emergencies, the Government will now introduce new legislation which will enable any future temporary changes to the rules on employment income to be made swiftly by the Treasury (under ministerial direction) via regulations, rather than via cumbersome new legislation.

These changes will be time limited, and will permit the Government to respond more quickly in the event that such emergencies arise in the future.

BUSINESS TAX

Any substantial overhaul of corporation tax was always going to be unlikely in this Budget, given the tax rate increase to 25% announced in the March 2021 Budget, which will be effective from April 2023. However, there were some noteworthy updates:

Annual Investment Allowance ('AIA')

AIA provides 100% capital allowances for qualifying capital expenditure, though notably this excludes cars and structural works on land and buildings.

The AIA was temporarily increased from £200,000 to £1m in the 2018 Budget, until 31 December 2020, with this increase then being extended to 31 December 2021.

In the Autumn Budget 2021, the Chancellor announced that the increase in the AIA limit to £1m would remain in force until March 2023.

This, coupled with the 'Capital Allowances Super-Deductions' announced in the March 2021 Budget, signals the Government's continued desire for businesses to invest in plant and machinery.

This further extension to the AIA is welcome, as many businesses are now considering capital expenditure on plant and machinery as they emerge from the COVID-19 pandemic, particularly as the Super-Deductions regime is not as generous for 'special rate pool' capital expenditure, as it is for 'main rate pool' capital expenditure.

Research & Development ('R&D')

Whilst the Government wants to encourage businesses to carry out R&D with the aim of making the UK a "science and technology superpower", there is a concern that a proportion of the tax relief is subsidising R&D being carried on outside the UK.

Whilst there is little detail available, it is clear that the Government intends to incentivise greater domestic investment by re-focusing the relief on domestic activity, which will bring the UK into line with other developed countries offering similar tax incentives.

Although it is not certain, it seems that from April 2023 enhanced tax relief for R&D expenditure may only be available for activities carried out in the UK. In this case those companies which currently outsource R&D research projects to overseas entities may no longer be entitled to that enhanced relief.

It remains to be seen whether there will be any 'grandfathering' rules, or exceptions for group companies overseas.

There is also mention of a "modernised R&D tax credits regime" but again no detail. Hopefully any future changes will not create additional barriers for businesses wishing to claim the relief.

Recognising the advances in technology that have already occurred, and which were not envisaged when the enhanced R&D tax relief was introduced, the Government also intends to extend the scope of the relief to include cloud computing and data costs. This will better reflect how businesses carry out R&D in current times.

Cultural and Creative Reliefs

Museums and Galleries Exhibition Tax Relief ('MGETR') which was due to expire in April 2022, is to be extended until at least 31 March 2024 at the earliest.

In addition to the extension to MGETR, an immediate, albeit temporary, increase to all three corporation tax 'cultural reliefs' was also announced. From 27 October 2021 until 31 March 2023 both MGETR and Theatre Tax Relief ('TTR') will increase to 45% and 50% from the current rates of 20% and 25%, for non-touring productions and touring productions respectively. These increased rates will taper down to 30% and 35% for 1 April 2023 until 31 March 2024, and revert back to the existing rates from 1 April 2024.

Orchestra Tax Relief ('OTR') will similarly increase from the current rate of 25% to a rate of 50% from 27 October 2021 until 31 March 2023. The rate of OTR will then taper down to 35% from 1 April 2023 to 31 March 2024 and revert to the current rate of 25% from 1 April 2024.

These look to be very welcome measures for the cultural sector, which has been one of the hardest hit over the past 18 months. Although the extension to MGETR and increase in corporation tax relief are very positive, it was also announced that, with effect from 1 April 2022, the Government is to clarify some of the relief rules in order to make it easier for touring production companies to claim relief, and also make it easier for all businesses to understand what can be claimed.

Although the headline appears positive, it is also stated that the proposed revisions seek to better target the cultural reliefs and ensure that they continue to be safeguarded from abuse. No further details have been announced as yet, so it is not possible to ascertain the extent to which these revisions may negatively impact claims and therefore take the gloss off the temporary increase in the rates of relief.

A minor revision was announced to Film Tax Relief ('FTR') to take effect from 1 April 2022. The measure will enable film production companies to continue claiming FTR should there be a change in intention partway through a production, which results in the production meeting the High-End Television Tax Relief ('HETV') criteria instead. This would occur when the theatrical release is cancelled and the film instead becomes intended for a television broadcast, or is released directly to video on-demand services.

Under the existing rules, for a film to qualify for FTR, it must be intended for theatrical release to the paying public at a commercial cinema and this test must be met at the end of every accounting period, in addition to at the outset. Given the changes to the film distribution landscape, the increased flexibility will be welcome news to film production companies.

Banking Surcharge

The Banking Surcharge was introduced in 2016 and imposed an 8% corporation tax surcharge on the profits of banking companies. The surcharge was broadly charged on profits calculated in accordance with corporation tax principles, with some reliefs being added back.

The Banking Surcharge originally included a £25m annual allowance per group, which effectively meant that the surcharge only applied to group banking profits in excess of £25m. With effect from 1 April 2023, this allowance will be increased to £100m.

Following the announcement, in the March 2021 Budget, of the increase in corporation tax from 19% to 25% from April 2023, banking companies were facing an aggregate tax rate of 33% (25% corporation tax and 8% Banking Surcharge).

However, the Chancellor announced in the Autumn Budget 2021 that the Banking Surcharge would be reduced from 8% to 3% from April 2023. Combined with the increase in the corporation tax rate, this will mean that banking companies are only subject to a modest increase in their aggregate tax rate from the current 27% (19% corporation tax and 8% Banking Surcharge) to 28% from April 2023 (25% corporation tax and 3% Banking Surcharge).

This reduction is intended to maintain the current financial contributions of the banking sector to the Exchequer, without adversely affecting the UK's ability to attract internationally mobile businesses and talent.

New Tax Regime for Asset Holding Companies ('AHC's)

The UK has long been an attractive jurisdiction for the establishment of asset management and investment funds. The new policy is designed to address potential barriers relating to the use of UK companies within fund and investment structures. In particular, to avoid UK intermediate holding companies being subject to taxation which is disproportionate to their level of activity, and for investors to be treated as if they are investing in the underlying assets.

A qualifying asset holding company ('QAHC') is a UK resident company whose ownership must be at least 70% owned by diversely owned funds, managed by regulated managers, or certain institutional investors and exists to facilitate the flow of capital, income and gains between investors and underlying investments. The regime applies to a company whose main activity is investing its funds with the aim of spreading investment risk and giving investors in the company the benefit of the results of the management of its funds. Other activities of the company should not be carried on to any substantial extent (including trading activity).

The UK tax regime for QAHC will be based on existing corporation tax rules, but with amendments to enable most income and gains to be returned to investors with little or no tax paid by the QAHC. Activities outside the QAHC eligible activity will be subject to the normal corporation tax rules. In particular activities in relation to direct or indirect investments in UK real estate or intangibles will not be eligible (but overseas real estate will be). Returns from trading activity will not be eligible.

This is a generous regime demonstrating the UK's commitment to asset management and investment funds, first announced as part of a wider review of the UK funds regime in the 2020 Budget.

Other Measures

In addition to the above, there was the usual finessing of some of the corporation tax rules, loss relief and notification of uncertain tax treatments for large companies, but these announcements should not give rise to material changes for most companies.

INTERNATIONAL TAX

There were no great surprises from an International Tax perspective. The general approach was to tidy up some post-Brexit matters (abolition of cross-border EU group relief, which was limited in scope in any case) and to ensure that the Diverted Profits Tax and the UK's double tax treaties "function as they were intended" to do so.

Corporate Re-Domiciliation

Of greater interest was a consultation document released by the Government in respect of the introduction of a UK re-domiciliation regime, to allow companies to re-domicile and relocate more easily to the UK.

This is being considered as a measure to attract companies to the UK, and in turn create jobs, investment and innovation in the UK, as well as bringing the UK's laws in line with jurisdictions such as Canada, Australia, Singapore and a number of US states.

It should be noted that this concept is primarily a company law one, to allow a company to change its place of incorporation to the UK, whilst maintaining its legal identity and corporate form. At present, this is not possible and alternatives for overseas companies wishing to become UK domiciled include the insertion of UK holding companies into corporate structures, or transferring trade and assets to newly incorporated UK companies.

The consultation is seeking to understand the demand for such a regime and establish a framework around how such a regime might operate, including whether outward re-domiciliation should also be permitted. It is expected that inward re-domiciliation would only be allowed from jurisdictions which permit outward re-domiciliation.

For tax purposes, it is, of course, already possible for foreign entities to become UK tax resident and for UK companies to migrate their tax residence outside of the UK, whether intentionally or not.

The corporate re-domiciliation consultation considers whether tax residence should automatically move with corporate re-domiciliation, subject to double tax treaties, and also considers other safeguards and anti-avoidance rules, which may be needed in order to prevent corporate re-domiciliation from being tax led, leading to the avoidance of UK tax or unduly eroding the UK tax base.

PROPERTY TAXES

Property taxes continue to be an area of considerable Government interest, and this Budget was no exception including the introduction of yet another new property tax.

Extension Of CGT Property Return And Payment Deadline To 60 Days

Since 6 April 2020, in relation to the disposal of UK residential property where capital gains tax ('CGT') is due, UK resident individuals, trustees and personal representatives have been required to complete a property tax return, and pay the associated CGT, within only 30 days of the completion of the sale.

Also, since 6 April 2020, in relation to a direct or 'indirect' disposal of UK land (and regardless of the type of property, or whether CGT is due), non-UK resident individuals, trustees and personal representatives have been required to complete a property tax return, and pay any associated CGT, within 30 days of the completion of the sale.

The Chancellor has now decided to extend the 30-day deadline to 60 days with immediate effect. This change will therefore apply to disposals that complete on or after 27 October 2021, and will apply to both the property tax return deadline and to any associated CGT payment deadline.

This 30-day deadline was a very short window and often proved challenging to comply with. It is therefore a welcome development for the deadline to be extended to 60 days, although this may still prove to be too short for many.

New 4% Tax On UK Residential Property Developers

The Chancellor confirmed a new 4% residential property developer tax, which will be payable from next year by the largest companies and groups that develop UK residential property. This is part of a package of measures aimed at funding the removal of unsafe cladding used in apartment blocks, following the Grenfell Tower fire in 2017.

This new tax will operate as a 4% surcharge on the normal corporation tax rate, and will apply to profits in excess of £25 million arising from UK residential property development in accounting periods ending on or after 1 April 2022 (pro-rated where the accounting period straddles this date).

For these purposes the relevant profits will be calculated in accordance with the existing corporation tax rules, and will also be reported on the same corporation tax return. The new 4% surcharge will likewise be payable in the same way as normal corporation tax.

Groups of companies will be given an annual allowance of £25 million, which can be allocated between group members against UK residential property development profits calculated as above. Only profits in excess of this amount will be subject to the new 4% surcharge. If the profits are less than £25 million, there will be no need to separately report the residential property development profits.

This measure is clearly targeted at the 'big players' in the UK residential property development market. It is therefore unlikely to affect all but the largest companies and groups. For those companies that are affected, it is perhaps some consolation that the additional compliance burden will not involve a separate reporting and payment system.

Temporary Business Rates Reliefs

Recognising that the very high business rates faced by many businesses (particularly in London and the South East) are a major concern, but that simply abolishing the tax would cause too large a hole in the Treasury coffers, the Chancellor announced a number of temporary measures during the current economic recovery that are designed to ease the business rates burden.

These measures include making the business rating system fairer by introducing revaluations every three years; introducing a new investment relief to encourage businesses to invest in greener technology, such as solar panels; and enabling all businesses from 2023 to make property improvements without paying any extra business rates for 12 months.

Furthermore, the Chancellor announced the cancellation of the rates 'multiplier' for next year, effectively freezing business rates for that year.

Finally, the Chancellor announced a new, one-year, 50% business rates discount for businesses in the retail, hospitality and leisure sectors. As a result, these eligible businesses will be able to claim a 50% discount on their business rates bills up to a maximum of £110,000 for the next year.

The Chancellor anticipates that these incentives will result in a total cut in business rates of around £7 billion. It remains to be seen whether this will be sufficient to stem the decline of High Street shops faced with increased on-line competition, and pubs and restaurants hamstrung by shortages, rising prices and supply chain issues.

VALUE ADDED TAX

From a VAT perspective this Budget may be remembered more for areas that were not mentioned than those that were.

There had been widespread speculation that the Chancellor might try to lessen the blow of rising fuel costs by reducing VAT on supplies of domestic fuel for the winter. This did not happen and such supplies will remain subject to VAT at 5%.

Much lobbying by the hospitality industry in the hope of a reduction on the current reduced rate of 12.5%, or an extension to this rate, has not materialised. Hence, the supplies which fall within the 12.5% reduced rate will continue to do so until 31 March 2022.

In addition, there were no changes to the taxable turnover thresholds that require businesses to register for VAT, or allow them to deregister from VAT. Therefore, these will remain at £85,000 and £83,000 respectively until 31 March 2024.

VAT changes that were announced were in connection with addressing the consequences of the Northern Ireland ('NI') Protocol in relation to goods moving between GB and NI. The Budget announcements apply particularly to motor dealers and dentists. However, we could see such arrangements, or similar extended other goods in future.

Motor Vehicles – Second-Hand Margin Scheme

The Government will seek to reach an agreement with the EU to extend the VAT margin scheme to apply in Northern Ireland (NI) on a limited basis in respect of motor vehicles sourced from Great Britain (GB) for the period until such time as the Second-Hand Motor Vehicle Export Refund Scheme is implemented. As a result, motor vehicles first registered in the UK prior to 1 January 2021 will be available to sell under the VAT margin scheme in NI during that time period.

Second-Hand Motor Vehicle Export Refund Scheme

The Government will legislate to introduce a Second-Hand Motor Vehicle Export Refund Scheme. Under such a scheme, businesses that remove used motor vehicles from GB for resale in NI or in the EU may be able to claim a refund of VAT following export. The aim of this will be to put NI motor dealers on an equal footing with those applying the margin scheme elsewhere in the UK.

Exemption For Dental Prostheses Imports

The current VAT exemption for dental prostheses supplied by registered dentists and other dental professionals will extend to the importation of dental prostheses by relevant persons. The aim of this extension is to ensure consistency of VAT treatment of such prostheses supplied into and within the UK, including between GB and NI. This change will apply retrospectively from 1 January 2021.

VAT Rules In Free Zones

The Government also announced further VAT rules for businesses that will operate in one of the UK's new free zones. These will ensure that VAT is accounted for accordingly on supplies of goods that leave a free zone in certain circumstances, and where the rules relating to the free zone procedure are breached.

ADMINISTRATION AND REGULATION

There were a number of supporting papers released alongside the Budget to update the tax collection system, to further strengthen HMRC's powers, and to impose a new tax on the UK's Anti-Money Laundering compliance activities.

Basis Period Reform

It has been confirmed that basis period reform will be implemented, albeit with its introduction delayed by a year until 2023/24.

The measure will affect trading and professional businesses carried on by individuals and partnerships. In contrast to other types of income, such as employment, rent or dividends, this business income is not currently automatically assessed on a tax year basis, that is, according to the amounts arising in the tax year. Instead, the business prepares accounts, usually annually, and the assessment is based on the profits of the accounting period ending in the tax year, the 'basis period'.

Currently, specific rules apply to the early years of a business, which can result in overlapping basis periods, and consequently profits, which are taken into account twice. Relief is given for these 'overlap profits', by deduction from the taxable profits, either on a change in the business's accounting date or when the business ceases.

From 6 April 2024, the basis period will be the tax year ending 5 April, and if necessary the tax assessment will be based on a pro rata apportionment of the amount shown in two successive years of the business accounts. Accounts prepared to 31 March will, however, be treated as coterminous with the tax year.

The tax year to 5 April 2024 will therefore be a transitional year. The basis period will be the 12 months from the end of the basis period for 2022/23, plus the period running from the end of that year to 5 April 2024. For example, for a business preparing accounts to 30 April, the transitional basis period will be the 23 months to 5 April 2024 (or, in practice, 31 March 2024). Relief will be given in 2023/24 tax year for all overlap profits brought forward.

If, as a result of the transitional adjustments, the taxable profits for the 2023/24 year are higher than they would have been on the previous basis, the 'excess' tax payable will, as a default position, be spread over five years ('five year spreading'), but with an option to elect out of this spreading if preferred. It is intended that the legislation will make allowance for individuals with insufficient profits to utilise their overlap profits brought forward.

Individuals and partnerships who prepare business accounts to a date ending early in the tax year, say 30 April or 31 May, will have to file returns and pay tax before the second accounting year has ended, and so the accounts for that year will not be available. In these circumstances an estimate of the profits will be required, with a subsequent amendment to the tax return to confirm the final figure. A change to a 31 March accounting date may therefore be beneficial, but perhaps only after any relevant 'five year spreading' for the 2023/24 transitional year has been obtained.

Promoters of Tax Avoidance

Anti-avoidance measures have been further strengthened to target "persistent and determined promoters and enablers of tax avoidance". These rules add further bite to HMRC's armoury of tools to use in respect of suppliers of tax avoidance arrangements. Advisors should ensure that they remain appraised of these updates.

Anti-Money Laundering Levy

The Chancellor initially announced another new tax - the Economic Crime (Anti-Money Laundering) Levy ('the levy') - in the 2020 Budget, with various consultations taking place thereafter.

The levy will be payable by entities who are required to comply with the anti-money laundering rules under the Money Laundering, Terrorist Financing and Transfer of Funds Regulation 2017. This could include, amongst others, art market participants, financial institutions, legal professionals and accountants.

The levy is part of the Government's 2019 Economic Crime Plan and is intended to provide ongoing funding to allow the Government to put in place measures to combat money laundering.

The Chancellor announced in the Autumn Budget 2021, that the first levy will be charged for the financial year commencing 1 April 2022. The levy will be a fixed fee based on a band system, measured against UK revenue.

Band	Revenue Limits	Levy
Small	Under £10.2m	£nil
Medium	£10.2m – £36m	£5,000 – £15,000
Large	£36m – £1bn	£30,000 – £50,000
Very large	Over £1bn	£150,000 – £250,000

The precise levy amounts for each revenue level have not yet been determined, however they are expected to be within the bands indicated above.

The levy will be collected by HMRC, the FCA or the Gambling Commission. The levy can be charged on UK entities, UK permanent establishments and also applies to partnerships.

In particular, art dealers and galleries should be aware that they may be subject to levy as many will fall into the large band owing to high revenue levels, due to the typically high value of goods being traded, even where the profit and business size may be comparatively modest.

Discovery Assessments

A recent Upper Tier tribunal case found that, despite HMRC's strenuous arguments to the contrary, there was no statutory basis for raising an assessment in respect of underpaid tax in certain circumstances.

Rather unsurprisingly, provisions have been introduced to correct the relevant legislation, which in HMRC's view "maintains the widely accepted and understood position". The correction to the legislation extends the scope of recovery of underpaid tax by way of a Discovery Assessment.

Discovery Assessments offer HMRC a mechanism to collect underpaid tax outside the usual time window for enquiring into a tax return, this window being one year from the filing of a return submitted before the filing deadline. Generally, Discovery Assessments must be issued by HMRC within four years after the end of the relevant tax year. However, HMRC do have a longer period to issue Discovery Assessments if the taxpayer's behaviour is considered careless or deliberate.

By correcting the legislation, HMRC will unambiguously be able to collect underpayments of the 'High Income Child Benefit Charge' through Discovery Assessments. The 'High Income Child Benefit Charge' is a charge that is generally applicable when an individual's income exceeds £50,000 and they or their partner receives Child Benefit.

The change will also allow HMRC, via the use of Discovery Assessments, to collect underpayments of tax relating to charitable donations, where a Gift Aid election has been made but insufficient tax has been paid by the donor, together with certain types of pension scheme charges. Tax charges relating to charitable donations where a taxpayer has elected to claim Gift Aid Relief can often inadvertently arise when a taxpayer has less tax to pay for the year than originally anticipated and, therefore, they do not pay enough tax to cover the tax being reclaimed by the charity.

The change will be introduced retrospectively, but will not apply to any individuals who have previously received a Discovery Assessment and appealed to HMRC on or before 30 June 2021.

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