# GOING FOR BROKE

SEPTEMBER 2022

MINI-BUDGET BRIEFING

Kwasi Kwarteng, the new Chancellor, made a dramatic 'mini-Budget' statement today - a statement that was in truth more significant than most Budget speeches, and the most radical tax cutting announcement for decades. His statement unveiled a "growth plan to release the huge potential in the British economy", with its centrepiece being the announcement of "the biggest package of tax cuts in generations" - in fact, according to the Institute For Fiscal Studies, the biggest tax cuts since 1972, three years before the Chancellor was born.

The main beneficiaries of the dramatic tax cuts were businesses and high earners, with the highest rate of income tax being cut from 45% to 40%; the basic rate of income tax being cut from 20% to 19%; the cancellation of the previously announced corporation tax rise from 19% to 25%; National Insurance for employees, employers and the self-employed being cut by 1.25%; increases in stamp duty land tax thresholds; and the highest rate of income tax on dividends being cut from 39.3% to 32.5%.

The package of tax cuts is expected to cost £44.8 billion per annum by 2026/27 but is entirely unfunded. This is a big gamble by any Government, particularly one led by an accountant, Liz Truss. This is because it could lead to a wide spectrum of outcomes: ranging from a negative reaction in the financial markets leading to the depreciation in the pound and a big jump in the cost of servicing government debt; to the stimulation of rapid economic growth staving off a recession, increasing living standards and boosting overall tax receipts.

The Government hopes for the latter outcome but the early signs are not encouraging with an immediate, large, fall in the value of the pound against the US dollar, and significant falls in UK share prices despite the Government announcing big reductions in shareholder and corporation taxes which should otherwise have boosted share values.

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Mr Kwarteng is due to give his first full Budget speech by the end of the year, and this will include the annual forecasts of the public finances which are unlikely to make happy reading. In addition, much of his speech today involved repealing tax measures announced by his predecessor Rishi Sunak, and many of Mr Kwarteng's tax cuts will not take effect until April. Could a continuing negative reaction from the financial markets mean the Chancellor having to backtrack on some of his tax measures? Time will tell.

## Income Tax Rates Cut From 6 April 2023

The Chancellor announced major changes and reductions to personal income tax rates in England, Wales and Northern Ireland as part of the Government's "Growth Plan":

- The additional 45% rate of income tax on annual income over £150,000 will be abolished from 6 April 2023;
- The additional rate of tax on dividends will also be abolished, reducing the top rate of income tax on dividends from 39.3% to 32.5% from 6 April 2023; and
- The basic rate of income tax will be cut from 20% to 19% from 6 April 2023, a year earlier than planned.

From 6 April 2023 the top rate of personal income tax in England, Wales and Northern Ireland will therefore now be 40%, a rate not seen since 2010, and the top rate of income tax on dividends will be 32.5%. (The income tax rate cuts on non-savings and non-dividend income do not apply to Scottish taxpayers as the rates and bands for Scottish income tax payers on those types of income are set by the Scottish Government).

Taxpayers who would have been additional rate taxpayers will also from April 2023 benefit from a Personal Savings Allowance of £500.

Given the reduction in the basic rate of income tax to 19% in April 2023, charities will welcome the Government's introduction of a four-year transition period for Gift Aid relief to maintain the income tax basic rate relief at 20% until April 2027. The Government has stated this will help to support almost 70,000 charities and is worth over £300 million. The measure is likely to incentivise charitable giving, including to private charitable foundations, in the four year period before April 2027.

There will also be a one-year transitional period for pension schemes where income tax relief is given at source to enable them to continue to claim tax relief at 20%.

It is also worth noting that the Government is not planning to reverse the freezing of personal allowances and the 40% higher rate threshold for four years until 2025/26 (announced by Chancellor Rishi Sunak in his 2021 Budget). With inflationary pressures pushing up salaries, despite the announced income tax cuts, this is likely to draw more individuals into the higher rate of tax over the next few years. Fiscal drag, in other words, could easily outweigh the benefits of a 1p accelerated cut to the basic rate of income tax.

## National Insurance Rates Cut From 6 November 2022

In a measure designed to deliver on the Prime Minister's pledge to cut the tax burden and promote economic growth, the Chancellor announced yesterday that the 1.25% rise in National Insurance introduced by his predecessor in April will be reversed from 6 November 2022. Most employees are therefore expected to receive a cut in their National Insurance in their November pay packets, with some receiving it in December or January depending on the complexity of their employer's payroll software.

The Health and Social Care Levy, a separate tax which was due to come into force in April 2023 to replace this year's National Insurance rise, will also be cancelled. The Levy was expected to raise £13 billion a year.

The Chancellor confirmed that funding for health and social care services will be protected and remain at the same level as if the Levy were in place so that the NHS will be protected through the winter, and ensuring long-term investment in social care.

A quirk of the draft legislation that amends National Insurance rates from 6 November 2022 (i.e. 7 months into the current tax year) means the introduction of a set of blended transitional rates of National Insurance for 2022/23. For example, the main and additional NIC rates paid by the self-employed who pay National Insurance through their annual Self-Assessment tax returns will now be 9.73% and 2.73% on their 2022/23 business profits. These blended NIC rates have been applied in an attempt to be fair and consistent with rates of NICs paid by employers/employees who will have paid the increased NIC rate since 6 April 2022. It is also means the self-employed will not have to apportion their profits mid-way through the tax year.

The draft legislation includes a similar blended rate of 14.53% NICs for Class 1A NICs (paid by employers on their employees expenses or benefits) that do not relate to sporting testimonials and termination awards and for Class 1B NICs (NICs paid by employers if there is an arrangement with HMRC called a PAYE settlement agreement). This is because both types of NICs are assessed on an annual basis.

There are also provisions for Company Directors treated as employees to pay blended 12.73%/2.73% main and additional rates of Class 1 NICs for 2022/23 as Class 1 NICs paid by Directors is assessed on an annual basis.

Although these blended rates of NICs are a practical consequence of changing NIC rates mid-way through the tax year, they might not be easily comprehensible by the general public. One does wonder if the policymaker or Parliamentary draftsmen that came up with a 9.73% main rate of NICs for the self-employed is actually a secret Harry Potter fan influenced by the fictional platform 9¾ at Kings Cross station from where students of Hogwarts School of Witchcraft and Wizardry catch the non-unionised Hogwarts Express?

“Express” indeed seems an apt word given the Government’s request that Parliament fast-track the legislation to ensure it is in place by 6 November 2022. The Government’s justification for speed is that the reversal of the temporary increase in National Insurance requires changes to the payroll systems of all employers, to ensure people are not over-taxed, and to give employers and HMRC as much time as possible to implement the changes. While reduced rates of NICs will no doubt be generally welcomed by employers and employees alike given inflationary pressures and the cost of living crisis, employers and software providers might not think that sufficient time has been given for timely implementation.

## Business Tax Measures

For businesses the planned corporation tax increase to 25% from April 2023 was scrapped in favour of retaining the 19% corporation tax rate (the rate in force since 2017), as had been widely expected. Whilst not as generous as the ultimately abandoned planned decrease of corporation tax to 17% in 2020, this does mean that corporation tax rates will remain the lowest in the G7.

Furthermore the annual investment allowance (“AIA”), currently at £1,000,000, which has seen various tinkering since its introduction in 2008 and was due to reduce to £200,000 from April 2023 is now frozen at a permanent £1,000,000. The AIA is a valuable form of capital allowances, which gives 100% relief in the year of spend, for qualifying capital expenditure, so this permanent increase will be attractive to businesses.

The planned increase in corporation tax rates would have naturally increased the value of capital allowances in cash terms (as they would save tax at 25% rather than 19%). However, as this increase has been abandoned, it would be advisable for businesses to consider the 130% super deduction which is currently available for

‘main pool’ expenditure. With this allowance remaining in place until 31 March 2023, businesses may wish to consider accelerating any capital expenditure plans to capitalise on this relief before its withdrawal. It should be noted, however, that some tweaks to the super deduction scheme have been signalled, albeit no details were announced.

On the theme of encouraging business and growth, the changes to the Seed Enterprise Investment Scheme (“SEIS”) and Company Share Option Plan (“CSOP”) are also relevant. From April 2023, companies will be able to raise £250,000 of SEIS investment, an increase from the current £150,000, and the qualifying conditions will be slightly relaxed. This will be combined with investors being able to invest £200,000 a year into SEIS companies, which is double the current limit. This is designed to encourage investment into start-ups and provide a tax incentive to investors to contemplate these riskier investments.

The CSOP is a tax advantaged share scheme. Under the present scheme, the maximum value of CSOP options is £30,000. However, this will be doubled to £60,000 from April 2023 and the shares will no longer have to be in the majority share class. This will make the CSOP a more viable and attractive alternative where a company does not meet the qualifying criteria for the Enterprise Management Incentive scheme, which is generally considered the most attractive of the tax advantaged share schemes.

Furthermore, to continue to retain and attract top talent in the banking sector, the Bankers’ Bonus cap is to be scrapped. However, there is no reduction in the banking surcharge that banks will face on the profits to be generated by these rainmakers, so the differential in corporation tax rates affecting banking companies will continue to be 8%, as it is presently. However, it should be noted that the increased allowance of £100m before the banking surcharge applies has been retained, which will mean that some smaller banking companies will not have any profits which are actually subject to the banking surcharge.

## Stamp Duty Land Tax

The Government announced a relatively modest increase in Stamp Duty Land Tax (SDLT) thresholds:-

- For those purchasing a residential property, the threshold at which people begin paying SDLT will double from £125,000 to £250,000;
- The threshold at which first-time buyers begin paying SDLT will increase from £300,000 to £425,000; and
- The threshold at which first-time buyers can access SDLT relief will increase from £500,000 to £625,000.

## Off-Payroll Working Reforms

The Government announced that, from 6 April 2023, it will be reversing the off-payroll working reforms which were introduced in both 2017 and 2021. The original off-payroll working rules, known as IR35, were introduced in April 2000 to combat the avoidance of tax and National Insurance by workers who used an intermediary, such as their own personal service company, to engage with a client.

Prior to IR35, there were benefits of a worker engaging with a client or customer via a limited company as it was possible for the worker to avoid PAYE and National Insurance on what otherwise may be considered a salary payment, had the worker been engaged directly with the client. In addition, the client themselves could also avoid an Employer’s National Insurance charge on the payment.

IR35, was therefore brought in to ensure that workers who were operating in such a manner could not enjoy the tax advantages that working via a personal service company brought, when the worker was in substance acting as an employee of the client. The rules, in essence, required the worker (or intermediary) to assess whether they were within the IR35 rules, and if so, to operate PAYE and National Insurance within their

own personal service company. The intention of the rules was to treat the worker the same as if they were employed directly with the client.

The 2017 and 2021 changes essentially put the responsibility of determining whether the worker was within IR35 or not, and the subsequent collection of PAYE and National Insurance, on to the end client, rather than the worker. It was therefore not uncommon for the client as a matter of course to apply PAYE and National Insurance to payments made to workers, to avoid any unwelcome scrutiny or penalties from HMRC.

Today's announcement on reversing the 2017 and 2021 reforms, according to the Government, is to take the complexity out of the tax system. The Government's Growth Plan states that this should free up time for businesses who can now focus on more important issues, and also not penalise those who are genuinely outside the scope of IR35. It is therefore apparently not a change in tax policy, but the shifting of administrative burden on determining whether the IR35 rules apply back on to the worker and intermediary, rather than the end user.

There have been a number of recent IR35 tax cases where HMRC have been successful and these changes do not appear to provide any clarity on complex and subjective rules. In fact, given that the responsibility of applying IR35 is back with the worker, we may see further cases brought to tribunal if we see workers assessing themselves more leniently than a larger corporation might.

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# MINI-BUDGET BRIEFING

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