Spring 2013

Talking Tax

Guiding you to lifelong prosperity

Introduction Spring fever - tax hots up

Welcome to our first Talking Tax of 2013, the newsletter from Hazlewoods Tax Team.

Tax has been hitting the headlines recently and we all know that the world of tax is changing; we've been told often enough. The Chancellor's Budget and the preceding Autumn Statement in December are catalysts for change. In this issue, we give you the highlights.

In addition, we discuss how the extension of the popular Entrepreneurs' Relief will work and we look at who the recently renewed and expanding Affluent Unit at HMRC are aiming at and what actions you can take to protect yourself.

No man is an island, and businesses are no different. Cross border trading brings tax challenges. In this edition we consider how to handle the indirect tax responsibilities that international trade brings about.

HMRC's push towards Real Time Information (RTI) for PAYE is a tactical step in a wider trend towards speeding up the compliance cycle. What should you be doing now?

Finally we reflect on how to identify, request and retain appropriate documentation to support your tax position. If tax is getting hotter, an ability to produce the right evidence on request from HMRC is a wonderful way to cool things down again.

Talking Tax covers the latest developments and what they mean for you and yours. We welcome your thoughts as ever. Please get in touch via your normal contact.

Contents:

No big surprises

Finance Bill 2013

Once upon a time the Chancellor would announce changes to the tax regime annually as part of his Budget statement. Tax specialists would then work through the night to provide interpretation for anxious clients. The scurrying remains with us to a certain degree. However, the element of surprise is all but gone as the main measures to form what will become Finance Act 2013 are now trailed via consultation, Autumn Statement and this year at least, unfortunate internet leaks.

The Budget and the Autumn Statement are clearly opportunities for the Government to come up with new and hopefully fair ways of closing the infamous "Tax Gap". Each brings a raft of proposed and actual changes. It can get complicated! We have sifted through the details for you.

Here we look at what will bring in the most revenue to HM Treasury's coffers . Other analysis is available on our website.

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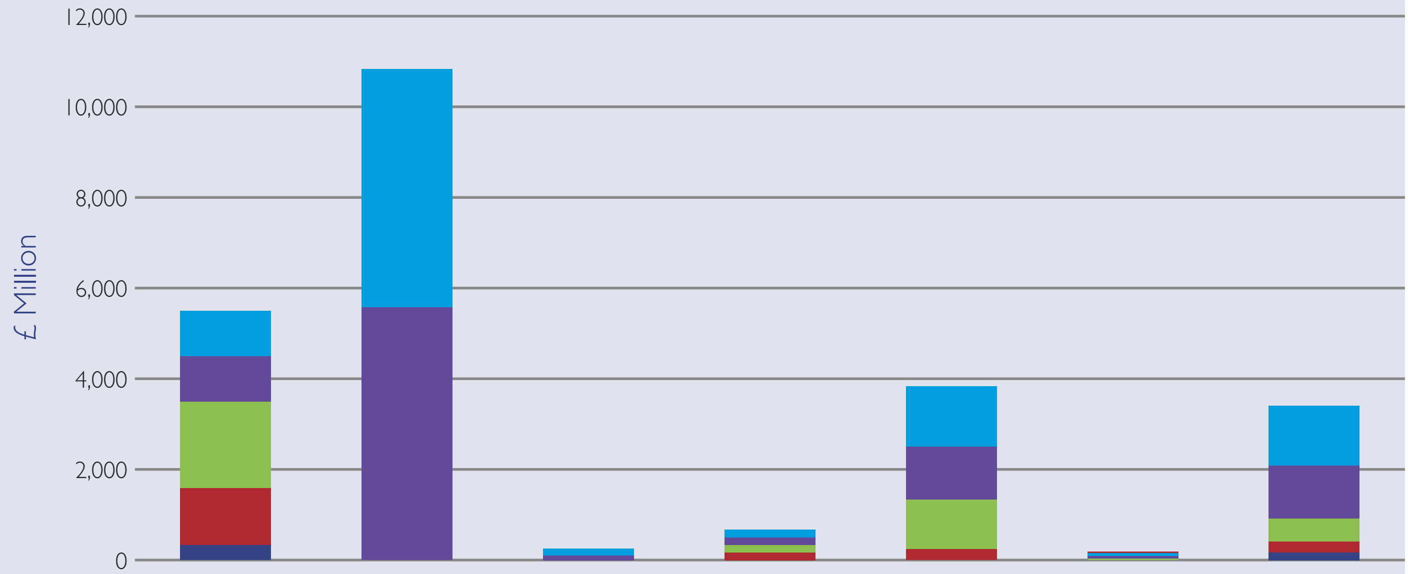
DRIVING LIFELONG PROSPERITY

How the Budget and Autumn Statement will raise revenue



	Budget anti avoidance measures	Contracting out NICs	IHT threshold freeze	Bank levy	IT higher rate threshold limits	Capital allowances	Pension relief restriction
17/18	1,020	5,435	170	250	1,260	30	1,125
16/17	1,075	5,495	80	245	1,235	40	1,000
15/16	1,935		20	250	960	30	600
14/15	1,025			195	350	20	300
13/14	395					5	200

HMRC's priorities

Simplicity works

The biggest contributor is the abolition of contracting out for National Insurance purposes for public sector employees and some private sector. This was well trailed and not a surprise.

The Budget's general push on avoidance including new information sharing arrangements with Jersey and Guernsey are due to bring in approximately £5bn over the next five years. Tax planning will continue to be under scrutiny.

The humble but universal income tax threshold is next. Holding down the increases in the level at which higher rate income tax is payable (£34,370 for 2012/13 is down to £32,010 the following year) is due to raise almost £4bn billion by April 2018. While many complain about the complexity of the UK tax system, this move shows how effective a simple action can be. Around five million taxpayers will lose out, mostly men born after 1948 although the impact will be softened by the crowd pleasing £10,000 personal allowance from April 2014.

Another lucrative move is the cut in the pension annual, and lifetime, allowances. From 6 April 2014 the annual allowance will reduce from £50,000 to £40,000. Also, the lifetime limit on the value of pension funds will reduce from £1.8 million to £1.25milliion. This is a tax aimed at the 'affluent' but also employers who make contributions to registered pension schemes on their employees' behalf.

The final big contribution comes from the bank levy, increased in the Budget. The technicalities are not for this newsletter but its implications may be far reaching. Will the levy lead to banks seeking to claw back costs from their customers? Will charges to businesses increase? No one knows the answer but it is a reasonable inference to make.

Our advice

- Make the most of what you have. Are you using the personal allowances in your family wisely? Are there lower rate taxpayers who could be reasonably allocated more income? It sounds simple but as we know, simple works.
- Having a look at your current bank costs is always sensible - can you get a better deal? Are your finances efficiently structured? Can we help?
- The pension limits apply from April 2014 so you have time to consider the implications and make alternative arrangements. For example, can you make a contribution before the door shuts on big payments? Given the knock on effects including business cash flows, security on any existing borrowings and family commitments, a discussion with your normal Hazlewoods' contact to understand the constraints as well as the possibilities is advisable.
- Review your current tax planning and make sure you have a full tally of your assets and arrangements. Do you have an up to date picture?

Cash cows aside, developments are either policy shifts such as the introduction (eventually) of the General Anti Abuse Rule (GAAR) or legislative amendments such as the changes to Research & Development ('R&D') tax credits. The advent of a GAAR is a hot topic which will run and run. A GAAR will enable HMRC to challenge tax planning which, whilst within legislation, is considered by them to be unacceptably aggressive. It also means that they will not need to wait for legislative change to prevent further use of such planning.

The Autumn Statement and Budget announcements will be incorporated into the Finance Bill and as it progresses through Parliament we will keep our website up to date with how the proposals are developing and what you can do to get into the best shape possible in the meantime.

Indirect taxes - how international trade means international compliance

The global trend is shifting markedly towards indirect taxes. Less "visible" than income tax, Governments can step up indirect tax revenues with a relatively small political rebound. As a result the vast majority of countries around the world have a VAT, GST or similar system of taxation.

Indirect taxation within the European Union is broadly similar between different countries. Other nations outside the EU have often used the European model when introducing indirect tax systems. Some though, have evolved bespoke systems that bear little if any similarity. Businesses seeking to trade outside their domestic markets must be aware of, and comply with, the taxation rules in the jurisdictions in which they seek to be active. These may operate differently to what they have been used to.

Need for compliance

Whether it is UK businesses looking to expand into markets in Europe and beyond, or non-UK enterprises that are looking to trade in the UK, the need to comply with local tax and reporting requirements, as well as build local taxes into pricing and profitability projections, is paramount.

Indirect taxes can materially affect business models. One off installations, on site valuations, repairs and maintenance can all create a presence in an overseas jurisdiction. Turnover thresholds for registration are frequently nil.

Furthermore, there are penalty regimes in most countries for non compliance. Taxes can therefore eat into margins and, if not allowed for in advance, skew operational performance.

How can Hazlewoods help?

Hazlewoods is part of a global network of like-minded firms who work seamlessly and efficiently to support clients around the world. As such, Hazlewoods is able to offer a truly global presence. Whether you are trading abroad or planning expansion into new markets, the need to "know where you are" is paramount. This is true whether it is a long term push or a one off project. Hazlewoods can look at your structures, transaction flows, and supply chain and give you a detailed assessment of your registration and compliance requirements, as well as advise on alternative structures that may give rise to improvements or efficiencies.

Having established the need (or otherwise) for overseas compliance, we can then handle the entire registration process in each of the countries affected. This would include:

- Registration with Local Authorities
- Organising fiscal representation
- Appointing agents
- Arranging financial guarantees

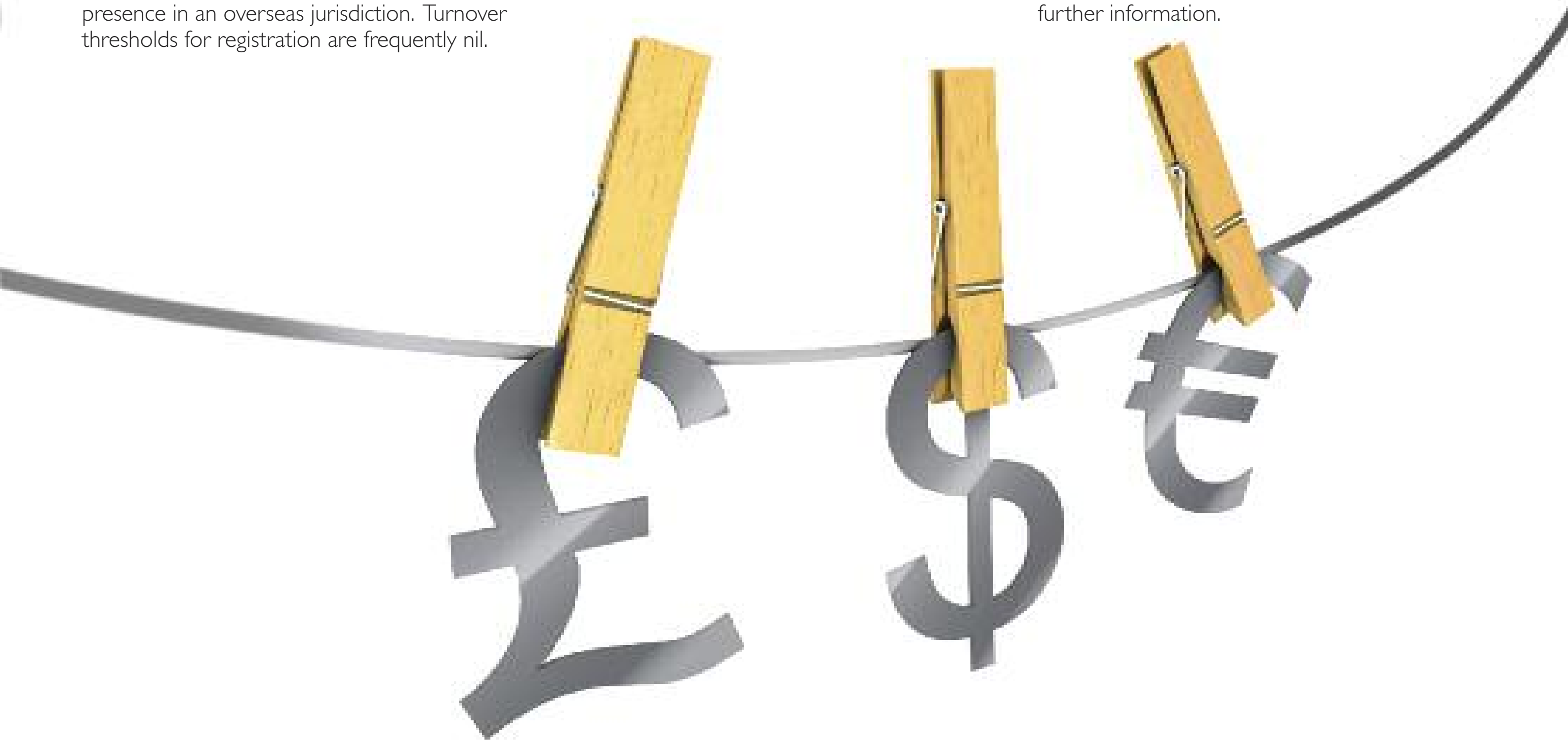
Our international network members can also help in the introduction of import agents and arrange warehousing in the countries concerned.

Once registered, we can arrange for all returns to be prepared and filed punctually and efficiently in the countries where you trade. We operate a diary on behalf of clients, setting out when information and payments are required, and allowing clients to manage their funding needs as well as their time. Your status in all jurisdictions is then summarised and reported via a central "hub", giving you complete control and visibility of your activities in other countries.

In summary

Overseas compliance is a complex area, and the rules vary from country to country. Innocent "one off" transactions can fall foul of local rules just as easily as long term trading. The requirement to register for indirect tax may not immediately be apparent, but that does not stop local authorities penalising businesses who do not comply.

Hazlewoods can help you navigate through this minefield; identifying where there is a need for action, ensuring that the appropriate steps are taken, and handling all your compliance requirements going forward. Please speak to Julian Millinchamp on 01242 237661 for further information.



About time

As Real Time Information (pay) rolls in, what short term actions do you need to be aware of ?

We have seen how Tax is heating up. It is also speeding up. Reporting cycles and subsequent enquiries are catching up with the cut and thrust of commercial activity. Anecdotal evidence strongly suggests that in-year enquiries based on current information are increasing, albeit on a piecemeal basis. On the bright side, this acceleration can give taxpayers valuable certainty on how to treat previously contentious items for the purposes of year end accounting.

Payroll is however, the first area that is moving to a Real Time Information (RTI) basis. Unsurprisingly, a fundamental change in reporting has led to a wealth of advice as to what you should be considering.

Here we focus on the key decisions you need to make sure you have covered as a priority.

1 Who is responsible ?

It may seem an obvious question but our experience is that ultimate responsibility for payroll as a process can sometimes fall between HR and Finance. This can lead to gaps. Make sure that the introduction of RTI is not one of these gaps.

2 How will you manage the process ?

Broadly, you have a choice between doing payroll in house, and moving to an outsource provider. You provide HMRC with all employee data anew with RTI, so this is a good opportunity to review current arrangements. The right answer for you will be a function of costs, time available, number of employees and personal preference. Talking to one of our Payroll Managers can help. They can run through the options, and give you an insight into the practical consequences of using a third party.

3 What will you use ?

Technology is a given here. HMRC require almost all payrolls to be managed online. They have their own software available to download, or there are a plethora of commercial options. The HMRC option is somewhat basic and, while free, is not as flexible as the other packages. An example is the constraint whereby, if a leaver chooses to re-join the payroll at a later date, HMRC software can't handle it and you have to re-enter everyone's basic data using a replacement package. This is frustrating and time consuming.

4 When is all this coming into effect ?

Depending on your business you could need to be operational by April 2013, although the Budget relaxed this for employers with less than 50 on the payroll. Until 5 October 2013, these businesses can send information to HMRC no later than the end of the tax month, rather than on the payment date. This will help employers paying weekly to adapt to the reporting arrangements. Penalty mechanisms are also being changed with final rules to be published in the Finance Act 2013.

5 Set up includes re-inputting employee and employer data (details of which are on the HMRC dedicated website) and will, for most of our business clients, be a substantial administrative exercise. Taking care over the foundations of the system will, however, reduce problems later on.

And beyond

The advent of RTI not only revolutionises payroll but is also a precursor for wider acceleration across compliance. That said, we think this could also be a golden opportunity for the tax payer to cut out unnecessary process, and save some cash. If you want to discuss what this could look like for you, and your business, please give Roy Thorogood a call. An overview Guide to RTI will be published shortly too. Again, please contact Roy on 01452 634800 if you would like a copy.

Entrepreneurs' Relief and Employee Share Schemes

Opening Entrepreneurs' Relief up widens employers' remuneration choices

The Government have proposed extending Entrepreneurs' Relief (ER) to include qualifying Enterprise Management Incentive (EMI) options below the 5% ownership threshold, from April 2013. This will give senior management another remuneration choice. There were however, some anomalies in the legislation issued in December. We have been discussing these with the draftsman at HMRC who has agreed with our interpretation. Here's the clarified current position:

- The new rules only apply to qualifying disposals of shares (acquired under EMI options) post April 5th 2013.
- The options in question must have been exercised on or after 6 April 2012 and been held for more than 12 months.
- Share reorganisations are a complicating factor, specifically
  - If the options were received as part of a share reorganisation, replacing existing EMI options, then you can 'look through' the reorganisation and relief is available on a post April 2013 exercise and disposal; BUT
  - If the option has already been exercised and the shares are then exchanged in a reorganisation, they are not relevant EMI shares and so ER is only available if you meet the existing ownership tests rather than the new, extended rules.

Our message is, do not assume that the new extension is universally available. To claim correctly you have at the very least to wait until April. Understanding the ownership history of the options in question is also necessary. Our experts have dealt with this directly with the HMRC specialist responsible for this area. We can help you decide what the best path is for you. Please speak to Tom Woodcock to find out more.

Analysis

Have stronger HMRC powers changed how tax compliance works?

We investigate the power of paperwork for today's taxpayer.

HMRC's Charter says that taxpayers are honest unless proven otherwise. However, a shall we say, 'comprehensive', approach to information gathering can quite often leave one feeling unnecessarily persecuted. A detailed investigative approach can get unwieldy, expensive and unpleasant.

Many tax reliefs now rely on the taxpayer keeping adequate documentation in order to substantiate successful claims. Examples include the recently enhanced Annual Investment Allowance, Research & Development tax credits, transfer pricing, patent box claims and of course the April advent of Real Time Information for payroll managers.

What can HMRC get?

A lot. Broadly, they can ask for existing documents they consider being reasonably relevant to any tax, direct or indirect. They can ask for information not contained in those documents too. They can inspect your premises and those of involved third parties e.g. your accountants! And, worryingly, they can impose a penalty if you don't tell them of any inaccuracy in information produced in response to one of their requests. Even if you didn't know about it yourself.

What to do?

The relationship between taxpayer and tax authority will never be one of best friends but there is hope in HMRC's oft-repeated intention to focus on miscreants rather than the (majority) honest taxpayers. The catch however, is that, rightly or wrongly, that honesty needs to be documented.

To avoid unnecessary paperwork however, we have identified a few simple ways to address these changes without going overboard.

Give a clear picture

Tax returns should be 'correct and complete'. Essentially one should disclose enough to give HMRC a well rounded, complete overview. Any uncertainties or positions taken should be disclosed.

Faced with little or no evidence, Inspectors are far more likely to seek a less than favourable treatment. Having the right paperwork can save a taxpayer a considerable amount.

Think ahead

It makes sense to make sure paperwork gives enough information as it happens. It's a lot easier to specify formats etc. before paperwork is generated than asking for re-writes.

Can you ask for any invoices for building work, say, to analyse out the spend so that qualifying costs for capital allowances are irrefutably identified? If you are planning a group reorganisation, do the Board minutes reflect the business reasons clearly?

If you expect a transaction to have material tax implications, have a chat with your advisor up front to check what would be good to get on file now.

Use technology to ease the pressure

Technology is a wonderful thing. Hard copy files take up room. And gather dust. Thankfully HMRC accept soft copy records in most cases. The scanner is your friend. Hazlewoods use electronic filing internally and can provide advice on how to structure your filing to meet your needs and obligations.

We advise principled pragmatism

HMRC have a duty to determine whether the right amount of tax has been paid. They have strengthened their powers to do this. It is in your interest to provide clear information that helps in this quest. Being co-operative to both informal and formal requests for information should, in most cases, lead to swifter settlements without the stress and expense of long investigations

As advisors we can help you balance pragmatism with practicality while defending your tax position robustly. There is a difference between focused query and a fishing expedition. We can help you decide when a request is unreasonable.

Innocence is presumed until guilt is proven. However, knowing you can prove your innocence is a much happier (not to mention cost effective) place to be than hoping and waiting to find out.

How we can help:

Compliance services

When we prepare a return we will give you a list of what information is needed. If your records are inadequate we will advise you quickly, before HMRC even see the return.

Bible production

Filing papers is a lot easier when done as soon as a deal completes. We can collate the documents that HMRC will want to see for submission either in year or with the tax return.

Negotiation

As ever, regardless of the recent changes, you can depend on us to fight your corner.

Health checks

We can review and spot the chinks in your armour, and help you repair them fast.

A brief history of how HMRC's powers have developed

2004: Disclosure of Tax Avoidance Schemes ('DOTAS') legislation is introduced.

2005: HMRC and HM Customs & Excise merge. DOTAS extended.

2006: DOTAS scope extended again.

2007: Criminal investigation powers are given to HMRC.

2009: FA 2008 Sch 36 boosts and harmonises the information and inspection regime.

2010: Sch 36 and DOTAS are extended. DOTAS continues to be strengthened thereafter.

2012: Data gathering powers included in FA 2011.

2013: GAAR to be introduced.

Tax compliance:

Will HMRC's Affluent Unit have you in their sights?

HMRC are aiming for people with

- a low effective rate of tax;
- bank accounts in Switzerland;
- late self assessment returns;
- reduced stamp duty bills; or
- UK and offshore property portfolios

What's been happening?

HMRC's Affluent Unit was set up in the aftermath of the 2010 spending review, funded by some of the £917m allocated to HMRC to combat avoidance. Its hunting ground is taxpayers with an annual income of more than £150,000 and wealth of between £1 million and £20 million. In September a further £5m was handed over by the Government, allowing recruitment of over 100 Inspectors to join the team and they were tasked with bringing in an extra £586m in tax by the end of 2015.

At the same time, a recent VAT campaign targeted the 50,000 or so businesses that had one or more VAT returns outstanding, and had been told to submit their returns but had not done so. Some will have received an assessment of VAT for these periods. These businesses were given an opportunity to get up to date and pay the tax they owe by 28 February. HMRC are now targeting them, and taking a much closer look at their tax affairs.

What does this mean for me?

On the one hand, taxpayers who have historically taken HMRC's warnings with a pinch of salt and been, let's say, relaxed in meeting their reporting and/or payment responsibilities, are being treated pragmatically and being given some time and space to get their affairs in order before HMRC get tough. Disclosure facilities have been announced with the Isle of Man, Jersey and Guernsey regimes too. On the other hand, those who are considered to be deliberately underpaying are being offered no such gentle treatment. They are the quarry and resource is to be directed accordingly.

Compliance is not static so neither should you be. HMRC are using their funds to target groups of taxpayers - if you fit their profile, getting up to date with your responsibilities may well help you escape their attention.

We can help you to...

Get on top of compliance

In the past, missing a deadline, while inadvisable, did not often have long term ramifications. These days it could be the trigger for a volley of carefully aimed queries, investigation and penalties. We can help you make the most of the current window of opportunity and get your tax affairs up to date.

Prove it

Evidence is key. We will work with you to make sure you are in the best position to show your compliance.

Negotiate well

If you suspect you will be or, indeed, have already been, contacted by HMRC's sharp shooters take comfort in the fact that they are publically committed to open negotiation, based on transparency and fairness.

Hazlewoods Tax Team

Services

We provide specialist advice in all areas of tax including the following:

- Business structuring
- Employer services
- Inheritance Tax and estate planning
- Partnership Tax services
- Tax Investigations
- VAT
- Corporation Tax
- International Tax services
- Owner Managed Businesses
- Personal Tax
- Trust Tax
- Stamp Duty and SDLT mitigation
- Transactions, planning and support
- Capital Gains Tax planning
- Tax Litigation Support

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