SLAUGHTER AND MAY/

CLIENT BRIEFING

SEPTEMBER 2022

THE (NOT SO) "MINI-BUDGET"?

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The Chancellor's fiscal statement to Parliament today (commonly referred to in the press as a "mini-Budget") brings significant changes to the tax regime affecting UK employees and their employers. In this briefing, we explore the key proposals and the likely HR consequences for UK companies.

TAX RATES

Under the proposals, employers' and employees' NICs will be reduced by 1.25% with effect from 6 November 2022, with the intended implementation of the new Health and Social Care Levy scheduled for April 2023 now being abandoned. Also, with effect from April 2023, the additional rate of income tax (currently set at 45%) will be abolished, meaning that all earnings above £50,270 will be subject to income tax at the 40% higher rate. The basic rate of income tax is being reduced (from 20% to 19%), so that all those earning more than the personal allowance (currently £12,570) will have a lower effective rate of tax in the next tax year.

Given this anticipated reduction in the marginal rate of tax, HR departments may well now receive requests from employees to arrange for the payment of annual bonuses and/or the satisfaction of deferred bonus or long-term incentive awards to take place after 6 April 2023 when the new income tax rates take effect. This could be accomplished by the delivery of share awards in the form of nil-cost options or, with the consent of the relevant participants, the vesting of outstanding share awards being delayed.

SHARE OPTIONS

The Chancellor also announced welcome amendments to the legislation governing tax-favoured discretionary market value share options, commonly referred to as "Company Share Option Plan" or "CSOP" options. An employee exercising a CSOP option will normally be exempt from the usual charge to income tax and NICs on the gain made on exercise.

The maximum value of shares over which an employee may be granted a CSOP option has remained fixed at £30,000 for many years, whilst the limits on an individual's maximum participation level in the other HMRC-promoted employee share plans have been increased. It is therefore welcome that the Government proposes to increase the limit on the value of shares over which an employee can receive CSOP options from £30,000 to £60,000. This will make CSOP options markedly more attractive to UK companies for whom the £30,000 limit had become a barrier to effective employee retention and incentivisation.

It is also intended that the CSOP legislation will be amended to widen the types of eligible shares. This will enable companies who historically have not been able to benefit from the CSOP regime to offer these tax-efficient share incentives to their employees.

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ENTERPRISE ZONES

The Government proposes to set up a number of enterprise zones in the UK to act as centres for economic growth. As an incentive to investment in these zones, any earnings up to £50,270 of any new employees working at least 60% of the time in these stipulated zones will be exempt from employer's NICs. Companies will therefore want to consider whether they wish to establish workplaces in these areas to benefit from this exemption.

OTHER TAX AND REGULATORY MEASURES

The reversal of the planned increase in corporation tax (so that the rate remains at 19%) will have the effect of the statutory corporation tax deductions available in connection with the operation of employee share schemes being of less monetary value. The reduction in the proposed rates of income tax on dividends for the 2023/24 tax year will be of benefit to employees holding shares, but we do not anticipate that this will materially affect the practice of most companies operating a HMRC-approved Share Incentive Plan ("SIP") of reinvesting any dividends into "dividend shares" under the terms of the SIP (rather than distributing the dividends to SIP participants in the same way as for other shareholders).

Other measures intended to simplify the tax regime are also proposed, including the repeal of the 2017 and 2021 amendments to the IR35/personal service company tax rules. In addition, the Government has announced a wider legislative and regulatory reform programme which is likely to have a significant impact on individuals' employment relationships.

News outlets have focused on the proposal to abolish the cap on "bankers' bonuses" imposed by the remuneration codes published by the Prudential Regulation Authority and the Financial Conduct Authority. However, the ramifications of today's announcement extend beyond the financial services sector. The Government's statement that it intends to replace legislation incorporated into UK law as a result of EU directives and regulations may lead to significant changes to a number of areas of UK employment law which derive from EU law, such as working time requirements and the treatment of agency, part-time and fixed-term workers. Whilst the detail of these proposals is yet to be provided, it is an area that companies will monitor with interest.

PERFORMANCE FEES AND THE PENSIONS CHARGES CAP

Despite a lukewarm response from the pensions industry on the Government's earlier consultation in 2022 on removing performance fees from the defined contribution ("DC") charges cap, the Government has said it will bring forward draft regulations to achieve this. The charges cap (of 0.75% of funds under management) applies to the default funds of occupational DC pension schemes used for automatic enrolment. A "well-designed" performance fee can be removed from the charges cap to promote illiquid investments in science and technology firms.

RELIEF AT SOURCE

There will be a one-year transitional period for "relief at source" pension schemes to permit them to continue to claim tax relief at 20%, despite the reduction in the basic rate of income tax to 19% in April 2023.

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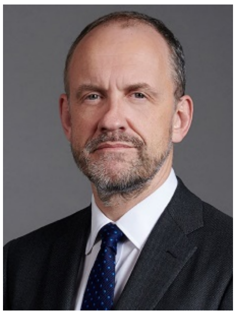

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