SLAUGHTER AND MAY/

CLIENT BRIEFING

MARCH 2023

2023 HR BUDGET BRIEFING

Pensions

Employment

Share Incentives

Despite the Government having made a number of other "fiscal statements" in the last 12 months, today's Budget still contained a number of new and noteworthy tax and financial support measures affecting employees and their employers. Changes to the taxation of employees' pension arrangements are particularly significant (especially the abolition of the "lifetime allowance"). The Chancellor also unveiled several new schemes to support individuals in work and amendments to make HMRC tax-advantaged employee share schemes available to more companies and easier to operate.

PENSIONS

There was a huge surprise in today's Budget for pensions savers. Rather than increase the lifetime limit on tax-efficient pensions savings (the subject of intense speculation ahead of the Budget), the Chancellor announced that the lifetime allowance would be completely removed. This is part of a package of proposed changes to pensions tax allowances designed to tackle labour supply issues: encouraging older workers considering retirement to remain in employment and encouraging those who have already left the workforce to return. The proposals are set out in a **Pensions Tax Limits policy paper**. In summary:

- Lifetime allowance tax charges will be removed from 6 April 2023, with the lifetime allowance (which currently stands at £1,073,100) being entirely removed from legislation at a later point.

- The maximum amount of tax-free cash (the pension commencement lump sum) will be retained at the current level of £268,275 from 6 April 2023 and will be frozen going forward. However, individuals with a protected right to take a higher amount of tax-free cash will continue to be able to do so. Where higher lump sums are paid, these will be taxed at the individual's marginal rate (instead of at 55%) from 6 April 2023.

- The taxation of other lump sums that are impacted by the lifetime allowance (such as the serious ill-health lump sum and certain death lump sums) will also be changed so that, where they are currently subject to a 55% tax charge over the lifetime allowance, the individual's marginal rate will apply from 6 April 2023.

- The annual allowance for tax-efficient pensions savings is set to increase from £40,000 to £60,000 with effect from 6 April 2023. Individuals will continue to be able to carry forward unused annual allowances from the previous three tax years.

- Where individuals have already flexibly accessed money purchase pensions, and are subject to the money purchase annual allowance, this will increase to £10,000 (from £4,000) from 6 April 2023.

There will be changes to the annual allowance taper for the highest earners. The taper will start kicking in at an "adjusted income" of £260,000 from 6 April 2023 (up from £240,000). The minimum tapered annual allowance will increase to £10,000 (from £4,000). This means that individuals with adjusted incomes of £360,000 or more will have the lowest tapered annual allowance of £10,000 (and it is worth noting that "adjusted income" is a broad measure that includes investment and rental income as well as employment income, and also adds in the value of employer funded pension savings).

These are significant changes for older employees with a good history of pensions savings. We can expect to see a revived interest in workplace pensions savings for employees who were close to or over the current lifetime allowance, and potentially a return to pensions savings for individuals who had stopped pensions contributions in order to retain a protected lifetime allowance under "fixed protection". Any employees due to retire in the next few weeks with a lifetime allowance charge to pay are likely to want to defer drawing their pension until the new tax year, but it looks like the changes will not assist recent retirees.

There are some nuances that are not answered by the details released so far: for example, the policy paper says that the measure will remove the need for individuals to rely on protections from previous decreases to the lifetime allowance (individual or fixed protections) but it is not clear how this ties in with retaining tax-free lump sum protections.

Checklist for employers:

- ✓ Cash allowance in lieu of pension contributions: What are the conditions of payment? Do the changes to the lifetime or annual allowances affect these?
- ✓ Pension benefits/contributions: Is there a link with the lifetime or annual allowances, and if so, what are the effect of the changes?
- ✓ Matching contributions: Do the terms of the matching contributions remain appropriate with the rise in the annual allowance and removal of the lifetime allowance?
- ✓ Uncapped benefits: Are any benefits uncapped in reliance on there being a lifetime allowance? Does this remain appropriate?

EMPLOYMENT

The self-styled 'back to work' Budget contained reforms intended to incentivise the seven million economically inactive UK adults (excluding students) to fill the approximately two million job vacancies in the UK jobs market. The measures are outlined in a Labour Market Measures Factsheet.

For working parents, more support with childcare will be made available:

- 30 hours of free childcare will be extended from the current parents of three to four year olds to all parents of nine month olds to when they start school. This will be rolled out in stages from April 2024 to September 2025.
- Funding for childcare providers will be increased, including new start-up grants for childminders, and new funding for local authorities to set up wraparound care in schools from 8am to 6pm, from September 2024 to September 2026.
- Universal Credit for working parents will be paid up-front, rather than in arrears, and the maximum amounts which can be claimed will increase to £951 for one child (up from £646) and £1,630 for two children (up from £1,108).

For the long-term sick and disabled, a new Health and Disability White Paper sets out the reform of disability benefits. The work capability assessment will be abolished, meaning that claimants will now only have to do one health assessment, rather than two, and claimants will be able to try work without fear of losing their financial support. There will also be a new programme of "universal support" to help disabled people find jobs, and new measures to help those with health problems to stay in work (with particular focus on those with mental health and musculoskeletal conditions). Two new consultations have also been promised on how best to increase occupational health across UK employers, covering potential regulatory options and tax incentives.

For those over the age of 50 (who account for around 3.5 million of the economically inactive), the pensions reforms outlined above are the headline measure. There will also be "returnerships", a new style of apprenticeship which will focus on flexible skills training that takes into account previous experience. The Department for Work and Pensions' "mid-life MOT" will also be enhanced for those still in work, and a further 8,000 "skills boot camp" places will be allocated in addition to the 56,000 currently on offer.

Although the Chancellor acknowledged the benefits of increased remote working for those with certain health conditions, there was no mention of any tax changes to hybrid working, despite the **Office of Tax Simplification's review of hybrid and distance working** from December 2022. There was also no promise of public sector pay rises, with the Chancellor suggesting that lowering inflation would provide a solution to the ongoing pay disputes. Previously announced income tax rates also remain the same, with the additional (45%) rate of tax applying to income in excess of £125,410 with effect from 6 April 2023.

SHARE INCENTIVES

As previewed in last year's Autumn Statement, changes will be made to the legislation governing the Company Share Option Plan (CSOP) legislation, under which employees may be granted tax-advantaged "market value" share options that can normally be exercised without giving rise to the usual income tax or National Insurance charge on any gains.

From 6 April 2023, the maximum value of shares (measured at the time the option is granted) over which an employee may be granted a CSOP option will be increased from £30,000 to £60,000. Furthermore, the types of "eligible share" over which CSOP options can be granted will be widened by removing the restrictions that, where a company has more than one class of shares, the shares used in connection with a CSOP must satisfy certain additional criteria. These are welcome changes which will increase the attractiveness of CSOP options and enable a greater proportion of companies to offer CSOP options to their employees.

Amendments will also be made to the legislation governing Enterprise Management Incentive (EMI) option plans, under which qualifying small and medium-sized companies may grant tax-advantaged share options to employees. From 6 April 2023, companies granting EMI options will no longer need to set out in the agreement granting the option the details of any restrictions to which the shares under the option are subject. This is a welcome improvement that will ease the administrative burden on companies and avoid causing issues on corporate transactions where failures to meet this requirement create uncertainty around the tax-advantaged treatment of EMI options for employees. The process of granting EMI options will be further simplified by the removal of the requirement for a company to declare that an employee has signed a working time declaration, along with the penalty for failing to produce a signed working time declaration or to provide a copy to the employee.

Finally, the Government will be launching a consultation on the Share Incentive Plan (SIP) and Save As You Earn (SAYE) legislation that governs the UK's all-employee tax-advantaged share plans. We intend to discuss with clients in the months to come how the SIP and SAYE legislation could be optimised to maximise employee participation. We anticipate that particular focus will be on:

- the reduction of the five-year period that shares must be held in a SIP before benefiting from the full exemption from income tax and National Insurance; and

- in light of the Government having already announced the reduction in the "annual exempt amount" from capital gains tax (CGT) over the next few years, whether shares acquired under a SAYE plan should be "rebased" for CGT purposes in the same way as SIP shares, meaning effectively that they will fall out of the scope of CGT, if they are sold at the time the SAYE options are exercised.

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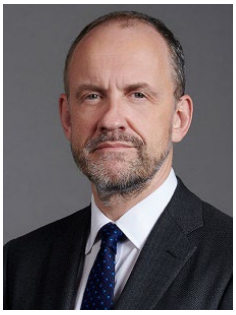

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