Philip Hammond’s Autumn Budget 2017 speech in parliament yesterday may not have contained many tax announcements of direct relevance to the wealth and asset management industry. However, closer inspection of the accompanying detailed policy releases revealed a variety of important measures for the sector to take note of.

In terms of headlines, there were no announcements concerning changes to the main rates of UK income tax, corporation tax or capital gains tax for individuals or businesses. For many UK asset managers operating through companies, the loss of the indexation allowance for chargeable gains is likely to be the main tax change.

However, delving into the small print, there were some key announcements that will be of interest to real estate funds concerning how UK property will be taxed from April 2019 and also an important amendment to the recently reformed carried interest rules which were enacted in 2015.

**Taxing non-UK residents on UK property gains**

The Government announced today that it intends to expand the UK capital gains tax (CGT) rules to non-UK tax resident persons for certain disposals connected with UK immovable property.

The new rules will include UK commercial property gains and gains realised on the disposal of shares in property rich companies. Broadly speaking, the latter applies to disposals where, throughout the five years preceding the disposal, the individual held 25% or more of the company’s ordinary share capital. These ownership conditions may mean that these rules will not have much impact on investment funds holding minority stakes in UK property companies as portfolio investments.

It is expected that this expansion will be introduced in Finance Bill 2018-19, with the changes taking effect from April 2019. It was also announced that an anti-forestalling measure has been introduced to prevent non-UK residents from taking actions ahead of April 2019 which are intended to mitigate possible future tax charges.

Typically, non-UK companies only currently pay corporation tax on chargeable gains in respect of UK residential property disposals. From April 2019, non-UK companies will also be subject to corporation tax (19% at that time, 17% from 1 April 2020) in respect of UK commercial property gains / property rich company share disposals.

From an asset management perspective, the above changes are likely to have a significant impact on real estate funds operating in the UK property market (both residential and commercial). Real estate funds should consider reviewing planned and existing structures in light of these changes to see whether alternative structures could instead be utilised. At this stage, our understanding is that asset level exemptions may continue to be available for certain tax advantaged real estate structures (e.g., REITs and PAIFs). However, the Government intends to both review the existing exemptions and also update certain double tax treaties in order to prevent perceived abuse.

**Capital gains tax: carried interest – removal of the ‘commencement provision’**

The Government has announced a measure to remove the ‘commencement provision’ contained within the carried interest capital gains tax rules with effect from 22 November 2017.

The carried interest capital gains tax rules introduced with effect from 8 July 2015 contained a ‘commencement provision’ which broadly provided an exclusion from potential taxation under those rules for amounts of carried interest ‘arising’ to an individual on or after 8 July 2015 in connection with a disposal of partnership assets before 8 July 2015.

The Government has today announced a measure that removes this ‘commencement provision’ from the capital gains carried interest rules with immediate effect, whereby any sums of carried interest treated as ‘arising’ on or after 22 November 2017 will not be able to fall within the ‘commencement provision’ and thereby fall outside of the scope of the capital gains carried interest rules.

The impact of this change should be limited as most carry arrangements will already be fully in the post 8 July 2015 regime.

**Changes to partnership taxation**

Today’s Budget confirmed the introduction of changes to partnership taxation. The rules were released in draft earlier in the year and subject to consultation. There are two categories of changes, the first concerns the allocation of taxable profits amongst partners and the second relates to administrative procedures concerning the partnership return.

The proposals previously announced raised concerns that there could be a significant additional administrative burden on investment funds operating using UK partnerships. For example, in structures with tiered partnerships the draft legislation requires that the taxable profits of certain UK partnerships should be calculated under four different methodologies in its annual partnership tax return.

In addition, the legislation previously released contained new rules detailing that taxable profit allocations to partners will now be required to follow accounting profit allocations. This could result in an anomalous result for partners who, under the partnership agreement, are entitled to profits calculated with reference to specific income streams and/or expenses with different tax attributes.

For management group structures and investment funds that could be impacted we recommend that the forthcoming legislation is reviewed carefully to assess potential impact.

**Corporate interest restriction rules**

Certain technical and administrative changes will be made to the corporate interest restriction (CIR) regime to ensure that it operates as originally intended, some of which will have retrospective effect to 1 April 2017, with others applying from 1 January 2018.

Infrastructure funds should pay particular attention to the proposed changes, as the policy paper suggests they will need to undertake additional work to comply with the CIR regime as a result of the amendments. More generally, the definition of a group for CIR purposes will be amended to ensure that assets managers do not cause otherwise unrelated business to be grouped together.

**Venture capital trust (VCT) changes**

The Government plans to introduce a number of changes to the conditions required for approval as a VCT and to the types of investments which are qualifying.
The reforms aim to ensure that VCTs are targeted towards growth and higher risk investments. The changes also increase the limits for investment in knowledge-intensive companies, in order to encourage investment in this sector.

Research and development (R&D)

The Government plans to introduce a measure that, from 1 January 2018, will increase the rate of the research and development expenditure credit (RDEC).

The rate will increase from 11% to 12%; providing an after tax benefit of 9.72% of qualifying R&D expenditure which is an increase from 8.91%. The Government also confirmed the piloting of a new advanced clearance service for RDEC claims to provide pre-filing agreement for three years.

This will be welcome news to large companies, which already claim R&D relief and may encourage large asset managers with quantitative and technology driven strategies to consider the regime. The SME regime remains unchanged but a campaign will shortly be launched by HMRC to promote awareness.

Requirement to notify HMRC of offshore structures

On 1 December 2017, the Government will publish a response to a consultation on proposals to require businesses or intermediaries creating or promoting certain types of complex offshore financial arrangements to notify HMRC of these structures and the details of their clients using these arrangements.

The announcement at Autumn Budget 2017 that the results of the consultation will feed into work underway in the EU and the OECD recognises the global nature of the problem of offshore tax evasion and may signal a preference to work towards a global solution rather than introduce yet another unilateral UK measure at this stage.

Extending time limits for offshore non-compliance

The Government will consult in spring 2018 on extending the time limits for assessing tax non-compliance where it relates to an offshore matter (offshore non-compliance) to at least 12 years, regardless of the behaviour that lead to the offshore non-compliance. The current time limits range from 4 years (general cases), 6 years (careless behaviour) and 20 years for deliberate non-compliance.

Anti-hybrid rules

UK anti-hybrid rules came into force 1 January 2017 looking to counteract ‘mismatched’ cross-border tax treatments arising from cross-border or domestic transactions.

The amendments to these rules announced yesterday do not make significant changes but instead seek to clarify certain technical ambiguities, and ensure the rules operated as originally intended.

We had previously identified technical concerns with these rules with potentially adverse treatment for UK corporate subsidiaries in certain management group structures, in particular those with US parent companies. It was not clear from yesterday’s releases whether the legislation has been updated to fix this issue and those impacted should monitor the updated legislation which should be published by HMRC on 1 December 2017.

Royalty payments and intangible fixed assets

The Government has announced that it will shortly publish a consultation on the design of new rules expanding the circumstances in which a royalty payment to a non-UK tax resident person would incur a liability to UK income tax.

Legislation will be introduced in Finance Bill 2018-19, and the changes would have effect from April 2019.

Asset managers should look to identify whether they hold intellectual property in their structure and monitor the forthcoming consultation as a starting point to assess impact.

The Government has confirmed its intention to consult on the corporation tax treatment of intangible fixed assets in 2018. The aim is to consider how the regime encourages growth and to better support UK companies investing in intellectual property.

National insurance contributions (NICs)

The Budget confirmed that certain changes already announced to NICs are still planned to go ahead, albeit from April 2019, a year later than planned.

These changes include the abolition of Class 2 NICs, which are currently payable by self-employed individuals. This will be relevant to a number individuals in the asset management industry that operate through partnerships and are treated as self-employed for UK tax purposes.

Certificates of tax deposit scheme closure

The Government has announced that Certificates of Tax Deposit (‘CTDs’) can no longer be purchased with immediate effect.

The CTD scheme allowed a taxpayer to purchase a certificate for offset against a historic or future liability with HMRC. Existing CTDs will continue to be able to be offset against liabilities until 23 November 2023.

If you would like to discuss any of these issues in more detail, please get in touch with your usual EY contact.

Kind regards

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