Executive summary
The UK Government has now released further details on a number of tax and social security measures announced previously at the Autumn Statement on 25 November 2015. While there is little further detail on the new apprenticeship levy, draft law has been released on certain employer share incentives and the operation of the dividend and savings allowances that come into effect from 6 April 2016, along with the law covering the protection for the pensions lifetime allowance.

The UK tax authorities (HMRC) have also been given the discretion to determine when returns for capital gain tax are required for the disposal of UK property by non-UK residents, which may reduce the number of cases where such returns are needed.

Apprenticeship levy
No further detail has been released regarding the apprenticeship levy, which is still described as being calculated as 0.5% of an employer’s payroll bill and paid with normal wage tax withholdings (PAYE). A further update on the proposals is expected to be released early in the new year.

Taxation of rights to acquire securities
The law related to employment related share incentives was subject to major reform taking effect from 6 April 2015. A further legislative change is being introduced to the taxation of certain share incentives that are not tax advantaged in the UK. The basic definition of a UK securities options is “a right to acquire securities” and this has led to much debate about whether awards such as Restricted Share Units (RSUs) should be taxed in the same way as securities options (which are subject to their own rules on taxation), or whether their value should be taxed as general earnings when they vest.

The change in law will make it clear that where an RSU type award is a “right to acquire securities” it will be taxed according to share options rules rather than as earnings when the awards vest. Following changes in FA 2014, the tax consequence of applying either set of rules was similar, but the UK social security position remains quite different, depending on which tax rules are applied. So, overall, the additional clarity is to be welcomed.

Whether an RSU award is or is not “a right to acquire securities” will depend on the detail of the plan rules and how the employer applies those rules in practice. Most plans will include a right for an employer to settle awards in cash, but HMRC will only accept this is sufficient to take a plan outside the securities options law if the employer exercises that right and settles at least some awards in cash rather than in securities. The intention is that the revised law will apply to all awards vesting on or after 6 April 2016.
**Employer provided accommodation**
The Government is considering reform of the current law in response to an Office of Tax Simplification (OTS) report. A new consultation document calls for information on the circumstances in which employers provide accommodation and their views of the existing regime to help shape potential future reform.

**Dividend and savings allowances**
From 6 April 2016, the dividend and savings allowances announced by the Government in 2015 will take effect. The dividend allowance provides an exemption from tax on up to £5,000 of dividend income for all taxpayers. The savings allowance will let basic rate (20%) taxpayers have up to £1,000 of interest tax free, and higher rate (40%) taxpayers up to £500 tax free. There is no savings allowance for those who pay tax at the top 45% rate of tax.

However, the way the new law will operate means that any dividend or interest income is still taken into account when determining what an individual’s highest marginal rate of tax is, even if that income is not taxed by virtue of one of the allowances. Therefore, individuals who have other income which is close to the limits of the basic or higher bands, can still find that the dividend or interest income pushes them into the next rate band. This can then reduce or limit the level of savings allowance received.

**Salary sacrifice**
Reference is again made to the Government remaining concerned about the growth in salary sacrifice arrangements and continuing to monitor this area, although no more detail is provided.

**Pension lifetime allowance changes and new protections**
Draft finance bill clauses covering the previously announced reduction in the lifetime allowance for pension savings to £1 million from 6 April 2016 have been released. The draft legislation also includes provision for the lifetime allowance to be increased above £1 million in line with inflation with effect from the 2018/19 tax year. This increase will be calculated based on the annual change in the consumer prices index (CPI) as measured in the September of the previous tax year. So the lifetime allowance for the 2018/19 tax year will increase by the annual CPI percentage for September 2018 (unless that percentage is negative).

The standard lifetime allowance is currently £1.25 million. Individuals will be able to keep a £1.25 million lifetime allowance by obtaining a reference number from HMRC after 6 April 2016. This is called Fixed Protection 2016 and is subject to various criteria including a requirement that the individual must not have any new pension benefit accrual and must not join any new registered pension schemes on or after 6 April 2016 except in limited circumstances.

Alternatively, individuals with pension savings over £1 million will be able to keep a personal lifetime allowance equal to the level of their pension savings as at 6 April 2016 (calculated in accordance with prescribed rules) but capped at £1.25 million. This is called Individual Protection 2016 and, again, it requires a reference number to be obtained from HMRC after 6 April 2016. At first sight, the advantage of Individual Protection 2016 over Fixed Protection 2016 is that it does allow new benefit accrual and does allow the individual to join new registered pension schemes after 6 April 2016. Therefore, Individual Protection 2016 is likely to be the preferred option where pension savings already exceed £1.25m as at 6 April 2016 because in that scenario it would offer the same benefit as Fixed Protection 2016 with greater flexibility. Where pension savings at 6 April 2016 are between £1 million and £1.25 million the preferred form of protection (if any) will depend on personal circumstances.

Unlike previous lifetime allowance protections, Fixed and Individual Protection 2016 do not appear to be subject to any application deadline so individuals who meet the qualifying criteria should be able to apply for a HMRC reference number at any time after 6 April 2016 but must ensure they do so before a benefit crystallisation event occurs if they want the protection to apply in respect of that event.

It is important to note that individuals who already have some form of lifetime allowance protection in place should not need to consider these new protections unless they do something to lose their earlier protection. If the standard lifetime allowance is higher than an individual’s protected amount in the future because of the CPI increases that higher standard lifetime allowance will always apply instead of the lower protected amount.

**Pensions tax relief**
As noted at the time of the Autumn Statement, the Government continues to consider responses to its consultation on the possible reform of pensions tax relief and has indicated that it will publish further plans at the 2016 Budget.

**Disposals of UK residential property by non-residents**
The Government has released law to give the HMRC the power to determine the circumstances when an NRCGT return is not required. It is not clear which returns HMRC will no longer require, but under the present law returns are required in many cases where no tax is due, so any potential relaxation is to be welcomed.
Next steps
Employers operating RSU type plans will need to take note of the new measures, and decide whether they require any changes to their tax withholding positions from April 2016. The wording of plans and the way these are settled in practice will determine the tax treatment of these going forward and whether this will be different from the current treatment.

Employers with UK pension arrangements should review their approach to communicating to employees changes in the lifetime allowance in light of the fixed protection arrangements that have been detailed. Many will have undertaken employee communication exercises when the lifetime allowance was reduced in April 2012 and 2014.

The other measures predominantly focus on administrative detail, but additional details promised early in the new year may deserve greater scrutiny.

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