Government announces new tax law changes in its Autumn Statement

Executive summary
On 23 November 2016 the UK Finance Minister presented his Autumn Statement to parliament but in a change from previous years only, limited details of proposed changes to personal and employment taxation have been released.

From 6 April 2017, there will be an increase in the UK tax payable on certain employee benefits-in-kind where the employee had a choice to receive cash instead of the benefit. A review of tax relief for employee business expenses is also back on the Government's agenda. The UK tax treatment of non-UK pension schemes is likely to become less favourable as the Government has announced an intention to widen the scope of payments from foreign pension schemes that are subject to UK tax, and to change the definition of overseas pension schemes in respect of which UK tax relief is available under UK domestic law.

The previously announced changes to the UK tax rules for non-domiciled individuals from April 2017 and to termination payments from April 2018 are to be implemented substantially as expected.

Key announcements affecting international assignees
The UK tax cost of benefits-in-kind
The Government has announced that from 6 April 2017 they intend to implement far reaching proposals designed primarily to remove the tax advantages of planning arrangements known in the UK as “salary sacrifice”. As currently understood, the scope of the proposals means they will apply beyond formal salary sacrifice arrangements to cases where the employee has had the ability to choose cash instead of a benefit-in-kind. The UK has various specific rules that are used to value a benefit in kind for tax purposes. Where the new rules apply the UK tax charge on the benefit in kind will be based on the gross amount of cash the employee could have received where that is higher than the taxable value of the benefit under the current rules.

Pension arrangements are excluded from the scope of the proposals but it remains to be seen whether this exclusion will cover pension provision under schemes that are not UK registered pension schemes. The proposals also exclude tax advantaged childcare vouchers, provision of bicycles to get to work and ultra-low emission cars. Arrangements already in place before 6 April 2017 will not be subject to the new rules until 6 April 2018, or 6 April 2021 in the case of arrangements involving cars, accommodation or school fees.

The UK tax authorities have told EY that these proposals would be applied to international assignees by reference to their UK contractual arrangements, being either a local UK employment contract or an assignment agreement covering the employment terms for the period of the assignment to the UK. We have raised concerns with the tax authorities about the potential impact of the proposals on tax equalisation policies.
Such policies may need to be reviewed in response to any future legislation.

As well as the proposals above, the Autumn Statement announced a review of the way the UK values benefits-in-kind for tax purposes and a consultation will be published specifically on the valuation of employer provided living accommodation. This review has the potential to increase tax costs even where the employee does not have the ability to take cash instead. There is also to be a review of tax reliefs for employee business expenses, but at this stage the Government is only calling for evidence of how the reliefs are used and there are no proposals for any changes to the rules at this stage.

**Non UK pensions**

**Background**
The UK has a complex framework for the taxation of contributions to and payments from non-UK pension schemes. In certain circumstances the UK allows relief for pension provision under a non-UK scheme in relation to periods when an employee is working in the UK. The UK will not usually tax payments out of such schemes if they are received more than five tax years after the employee has ceased to be UK tax resident. In contrast, UK resident individuals can sometimes receive payments from a non-UK pension scheme and not pay any UK tax. The Autumn Statement policy paper includes a paragraph outlining various changes described below.

**Key details**
- Foreign pensions and lump sums from foreign pension schemes paid to UK residents are to become taxable in the UK to the same extent as payments from UK pension schemes. The current position can be summarised as follows:
  - Foreign pension income can be taxed on the remittance basis (available to non UK domiciled individuals), or if taxed on the arising basis only 90% of the income is subject to UK tax.
  - Pension income from UK schemes is fully taxed.
  - The amount of a lump sum payment from a foreign pension scheme that is subject to UK tax can range from 0% to 100% depending on the facts.
  - Lump sums from UK pension schemes can be tax free, or only 75% of the lump sum is subject to UK tax.
- Non-UK residents who have benefitted from UK tax relief or exemption in relation to their foreign pension scheme are to be subject to UK tax charges on certain lump sum payments from the foreign pension scheme until they have been continuously non-UK resident for at least ten tax years rather than the current five tax year limit.
- The criteria for a foreign pension scheme to be considered an “Overseas Pension Scheme” for UK tax purposes, making the scheme potentially eligible for various UK tax reliefs or exemptions, is to be updated. There is no indication of what the effect of this update will be but our guess would be that fewer rather than more schemes will satisfy any amended criteria. This will affect the availability of relief under UK law and the exemption that can apply to employer pension contributions. Relief under double tax treaties should remain unchanged.
- The UK tax advantages of certain pension schemes established specifically for employees who work outside the UK, known as section 615 schemes, are to be withdrawn in respect of new savings. The fact that existing savings under such schemes will be protected from the change is to be welcomed but the loss of section 615 schemes will nevertheless create a challenge for those employers and employees who currently use them.
- Finally, the policy paper says that the Government will “align the tax treatment of funds transferred between registered pension schemes” although there is no detail on what will change.

**Income tax rates and bands**
No changes have been made to the UK income tax rates and bands for the 2017/18 tax year that were announced in the March 2016 Budget. The Government has reconfirmed the intention to increase the personal tax free allowance to £12,500 and the basic rate band to £37,500 by 2020. The rates and bands for 2016/17 and 2017/18 are as follows:

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<thead>
<tr>
<th></th>
<th>2016/17</th>
<th>2017/18</th>
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</thead>
<tbody>
<tr>
<td><strong>Personal allowance</strong></td>
<td>£11,000*</td>
<td>£11,500</td>
</tr>
<tr>
<td>Basic rate 20%</td>
<td>0 - 32,000</td>
<td>0 - 33,500</td>
</tr>
<tr>
<td>Higher rate 40%</td>
<td>32,001 - 150,000</td>
<td>33,501 - 150,000</td>
</tr>
<tr>
<td>Additional rate 45%</td>
<td>Over 150,000</td>
<td>Over 150,000</td>
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*Phased out by £1 per £2 of income over £100,000 or entirely for those who claim the remittance basis.

**Previously announced measures**

**Non-UK domiciled individuals**
The Government has confirmed that it is proceeding with its proposed reform of the tax laws applying to non-UK domiciled individuals, including deeming long term UK resident individuals to be UK domiciled. It has also announced that those who become deemed UK domiciled for tax purposes on 6 April 2017 will be able to rebase the cost of their non-UK assets to the value at that date. In addition, there may be a one off opportunity for non-domiciled individuals to separate their offshore mixed funds during the course of the 2017/18 tax year in order to simplify analyses of what they subsequently remit to the UK.
**Termination payments**
From 6 April 2018 the UK tax treatment of payments made on termination of employment is expected to change but there were no new substantial announcements on this in the Autumn Statement. It is expected that these changes will result in more payments on termination being taxed as earnings, the specific exemption or relief for foreign service is to be withdrawn and the exemption from National Insurance contributions for employers will be capped at £30,000 of qualifying termination payments.

**Other announcements**
The forthcoming Finance Bill 2017 is to include measures designed to simplify the process for employers to apply for and agree PAYE settlement agreements with HMRC. These are agreements whereby the tax and National Insurance costs on certain limited employee benefits can be paid annually by the employer and are used by some employers for the benefit created by assignee tax compliance assistance.

The Finance Bill will also include a provision requiring that employees who make payments in return for employer provided benefits in kind must do so before 6 July following the end of the tax year if they want the payment to be taken account of in determining the taxable value of the benefit.

Corporation tax relief for employer contributions to disguised remuneration schemes is to be denied (rather than just being deferred) unless tax and National Insurance contributions are paid within a specified period. This could affect employers with international assignees who participate in schemes that are caught by the UK disguised remuneration rules, for example certain unapproved pension arrangements.

A Government approved scheme offering UK income tax and capital gains tax advantages for employees acquiring shares in their employer company in return for agreeing to give up certain employment rights is to be abolished with grandfathering applied to those who have entered into these arrangements already.

**Next steps**
The two key announcements affecting international assignees have the potential to increase the UK tax costs associated with UK assignments. Employers should monitor developments to ensure that any increased costs can be considered and managed appropriately.

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