Welcome to the first issue of Tax Talk of 2016. Tax has been very much in the public eye again recently with several TV documentaries investigating creative tax planning and the use of ‘tax havens’, together with HMRC’s controversial tax agreement with Google all coming to our attention over a very short time period. As usual, if you would like to discuss any of the matters raised please do not hesitate to contact either Kevin, Andrew or Phil.

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Budget Speculation

The next Isle of Man budget is set for next Tuesday, 16 February, and although we will prepare our usual Tax Talk Budget Special we thought it might be interesting to highlight some of the items which we can expect to see mentioned.

Proposed Changes to Individual Taxation

Following last years IOM budget, Treasury Minister Eddie Teare MHK launched a public consultation in August to consider moves to further simplify the Island’s income tax system with the intention of lifting thousands of the lower paid out of the tax net.

The proposals would see the abolition of the lower 10% income tax rate, the effect of which would be counter-balanced by a significant increase in personal allowances, from £9,500 per person to up to £14,750, this being the point at which no individual would be worse off as a result of the removal of the 10% rate of income tax.

Although the consultation period closed on 9 October, to date no summary of the responses has been published and no doubt we will hear more details about the proposals next week.

Pensions freedom

The whole issue of pensions freedom is now familiar to UK residents, but there has been resistance to moving towards similar freedoms in the Isle of Man. In July, however, Mr Teare backed a motion supporting the general concept and a working group of private sector and government participants has since been set up with a technical group being formed to consider the options.

He said: ‘This is a very complex area and any changes have to be planned carefully. We must ensure any proposal will protect existing business and enable the continuation of pension transfers for Isle of Man residents’.

‘The working group has put forward some initial proposals which are currently being considered by Treasury for inclusion in the Budget.’

National Insurance for Workers over State Pension Age

Mr Teare also said during his 2015 budget speech that he would be considering bringing to an end the exemption from making National Insurance contributions for workers reaching state retirement age.

Ending the age exemption arose from recommendations made in the CI65 report on the challenges facing the Island’s state pensions and benefits system, which is largely funded by NI contributions.
Interestingly, HMRC have also published a consultation, closing on 24 February, on abolishing Class 2 NIC altogether and introducing a contributory benefit test to Class 4 NIC for the self-employed. This consultation explores how a reformed self-employed NIC system could confer benefit entitlement and the policy choices that the government will consider in designing the new contributory benefit tests.

The Isle of Man consultation closed on 14 October 2015 and, as with the consultation mentioned above, no responses have been published to date.

It may be that Mr Teare will now want to wait to see what responses HMRC receive to their consultation on Class 2 and 4 NICs and contributory benefits before showing his hand with the rest of his changes which must by now be in the very late stages of planning. It is possible that in this case some last minute changes to his budget speech might be required.

**Divergence of the Manx and UK state pensions systems**

As it looks like a review of pensions is on the budget radar it is possible that there may also be more tinkering relating to NIC and the state pensions system.

The first steps towards disentangling the Manx and UK NIC and social security systems will start on 6 April this year when the UK introduces changes to the basic state pension which the Isle of Man is not following. In the November sitting of Tynwald a pension protection ‘safety net’ was approved to guarantee that no pensioners are made worse off by the transition to the Island’s new state pension system under which retirees who have worked and paid enough NIC’s in both the UK and the IOM will receive a pension from each jurisdiction rather than a single combined payment.

A top up system is to be brought into effect for those 30 or so identified individuals who will reach state pension age in the 2016-17 tax year and who are expected to be disadvantaged by the new rules.

It is safe to say, that in the world of pensions and National Insurance, changes are definitely in the air.

**Manx Enterprise Investment Scheme consultation (MEIS)**

The Treasury consultation on the proposed new scheme offering relief from income tax to investors in growing Island-based businesses closed on 5 February.

The MEIS is part of a package of initiatives to boost the economy, increase business funding and grow the working population, announced by Chief Minister Allan Bell MHK in July last year. The aim of the scheme is to encourage investment in small higher-risk trading companies, resident in the Isle of Man, by offering income tax relief to investors who subscribe for new shares.

The consultation suggests that a maximum tax relief available for an individual will be £20,000 in a tax year, while for a jointly assessed couple it will be £40,000. The government anticipates that the additional finance raised will help businesses to grow, resulting in additional jobs in the Island and subsequent growth in the local economy.

Given the short timeframe between the end of the consultation period and the date of the IOM budget, one can only speculate as to whether the government are anticipating only having a small handful of responses to work through before Mr Teare makes any announcements in his budget speech.

There has already been widespread comment locally that the proposed relief will do nothing to encourage tax capped individuals from investing as they won’t benefit from the relief, and it will be interesting to see whether this point is addressed as it is surely these very individuals who will be the prime targets for investment in the types of companies that fulfil the MEIS criteria.

**Google Tax**

As mentioned in our introduction, there has been much press coverage of the £130 million deal that HMRC has reached with Google in respect of their tax liabilities for several years, apparently going back as far as 2005.

It has been less widely reported that the Italian Revenue Agency has disclosed that the Guardia di Finanza, Italy’s financial police, have served notice on Google with regard to its past tax payments in the country.
Apparently the Guardia is alleging that Google had a permanent establishment in Italy in the years between 2009 and 2013, and Italian taxes were therefore payable, for example, on the income received from clients in Italy. It is alleged that Google should have paid around EUR230m in Italian taxes in those years.

The case against Google follows the agreement made by the Italian Revenue Agency with Apple Italia at the end of December last year, wherein Apple Italia agreed to pay EUR318m to fully settle Italian corporate income tax said to be due since 2008.

The OECD, the EU Commission and the UK’s Diverted Profit Tax

This might sound a little like the title of a new Peter Greenaway film but the issue of countering aggressive tax planning could perhaps benefit from a good director.

Following the Google furore and the EU competition commissioner Margarethe Vestager’s statement that she would be willing to consider an investigation into the Google deal under State Aid rules, last month the European Commission has, in its own words, ‘opened up a new chapter in its campaign for fair, efficient and growth-friendly taxation in the EU’ with the publication of their ‘Aggressive Tax Planning’ study.

The study highlights loopholes in European Union (EU) member states’ corporate tax rules that may make aggressive tax planning possible and describes how multinational companies can exploit the lack of coordination in tax systems to reduce the taxes they owe. It also contains fact sheets summarising the main findings for each member state, along with examples of the tactics used.

According to the report, fourteen EU member states do not have controlled foreign companies (CFC) rules, while thirteen did not apply any beneficial-owner test when accepting a claim for a reduction of or exemption from withholding tax.

The study also found that although almost all member states have a general or specific anti-avoidance rule in place, these rules “can be only partially efficient” in preventing aggressive tax planning structures.

The Anti Tax Avoidance Directive proposes six legally-binding anti-abuse measures, which it says all Member States should apply against common forms of aggressive tax planning. These include –

- Controlled Foreign company rule – to deter profit shifting to a low/no tax country;
- Switchover rule – to prevent double non-taxation of certain income;
- Exit taxation – to prevent companies from avoiding tax when relocating assets;
- Interest limitation – to discourage artificial debt arrangements to minimise taxes;
- Hybrids – to prevent companies from exploiting national mismatches to avoid taxation and
- General anti-abuse rule – to counter aggressive tax planning when other rules don’t apply.

What the EU seem to have ignored is that last October, the Organisation for Economic Co-operation and Development (OECD) published the final Base Erosion and Profit Shifting (BEPS) package after two years of work on the 15-point action plan. Details of this were reported in Issue 14 of Tax Talk which is available on our website.

Many of the measures in the EU’s Aggressive Tax Planning study have also been covered by BEPS. Although most of the initiatives arising from BEPS will not take effect immediately, some countries have begun to take action by introducing changes to their domestic laws. An increased focus can be expected from tax authorities globally on the recommendations arising from the BEPS Action Plan, but how, in practice, will it be possible for revenue authorities to decide whether to follow BEPS recommendations or EU ones? Perhaps the UK are leading the field here – HMRC have recently issued updated guidance on the Diverted Profits Tax which was introduced in the 2015 Finance Act, ahead of both the BEPS and EU reports.

The guidance has been expanded in several places to provide further clarification on HMRC’s interpretation of the provisions and their approach, as well as including additional examples, and a new section with flowcharts on the application of the Diverted Profits Tax, although there are still some areas of uncertainty.
Clarification of new SDLT rules

In the UK Autumn Statement special edition of Tax Talk we mentioned that from 1 April 2016 a higher rate of SDLT would be charged on purchases of additional residential homes. A short consultation ran for just over a month, ending on 1 February, and this provided some clarification of the governments intentions in several areas, including that they intend to include global properties in the decision making process as to whether a newly acquired property is a second property or not. So, for all of you out there who were wondering whether to buy a property in the UK in addition to your home here on the island, it looks like you don’t have much time left to arrange this before having to pay the higher rate of SDLT.

No doubt the UK budget on Wednesday 16 March 2016 will confirm this.

Worldwide Tax Summaries

Just in case you were planning on looking up some of the tax rates in so called ‘Tax Havens’ around the world, may we give you a quick reminder that PwC’s comprehensive book ‘Worldwide Tax Summaries’ is now also available in five forms; the hard copy book, as a PDF, as an eBook, through our fully mobile compatible site WWTS Online, and also through Tax Analysts’ Worldwide Tax Treaties site. For more details please use the link on the Corporate Tax page of our website.

And finally - Top Ten Excuses

HMRC have revealed the ten worst excuses for missing the 31 January Self-assessment deadline for 2013/14:

- My tax papers were left in the shed and the rat ate them;
- I’m not a paperwork orientated person – I always relied on my sister to complete my returns but we have now fallen out;
- My accountant has been ill;
- My dog ate my tax return;
- I will be abroad on deadline day with no internet access so will be unable to file;
- My laptop broke, so did my washing machine;
- My niece had moved in – she made the house so untidy I could not find my log in details to complete my return online;
- My husband ran over my laptop;
- I had an argument with my wife and went to Italy for 5 years;

- I had a cold which took a long time to go.

Our personal favorite is number 4. Needless to say, none of the excuses resulted in a successful appeal against HMRC penalties for late returns!

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