CLIFFORD

CHANCE

Briefing note

March 2015

UK Budget 2015

A Budget containing good news for savers, first-time home buyers and the oil industry. As with previous Budgets, there was little cheer for the banking sector with another increase in the bank levy combined with restrictions on deductions. With an election looming, the Budget was lighter than in recent years but there was still space for a number of new anti-avoidance measures. The introduction of the so-called "Google tax" or, to give it its proper name, the Diverted Profits Tax, was confirmed. The month of January will never be the same again after the pledge to abolish the annual tax return comes into effect.

A summary of the main business tax announcements is set out below.

Key new announcements

- **Package of measures to help savers** – including the introduction of a personal savings allowance and changes to the ISA regime.
- **Oil and gas** – reduction of tax rates.
- **Bank Tax** – increase in the bank levy and denial of deductions for compensation for mis-sold products.
- **Diverted Profits Tax** – confirmation that this will take effect from April 2015.

Company Tax

Rates

The Government confirmed that the main rate of corporation tax will fall to 20% with effect from 1 April 2015 as previously announced.

Incentives

In addition to incentives for the oil and gas sector (which are covered separately in this briefing), the Government announced (or confirmed previous announcements made in the Autumn Statement 2014) a number of tax incentives for UK businesses/entrepreneurs:

- an increase in the film tax relief rate to 25% subject to state aid approval from the European Commission;
- changes to the high-end television tax relief to reduce the minimum UK spend requirement from 25% to 10%;
- the introduction of a children's television relief (from 1 April 2015) and a tax relief for orchestras (from 1 April 2016); and
- a consultation will be launched on extending entrepreneurs' relief to academics who hold shares in university "spin-out" companies but who do not meet the current conditions for the relief.

The Government has also announced improvements to Enterprise Zone incentives:

- existing enterprise zones at Mersey Waters, MIRA, Humber, Manchester, Tees Valley (Prairie) and Oxford Science Vale will be expanded;
- the designation of Leeds Enterprise Zone will be changed; and
- subject to business cases being completed, the enterprise zone at Discovery Park will be extended, and two new enterprise zones will be created – one at Blackpool, and the other at Plymouth.

Consortium relief

As announced in the Autumn Statement 2014, the Finance Act 2015 will make changes to the consortium relief rules to allow losses to be surrendered via "link companies" located anywhere in the world. Currently consortium relief is only available to other companies in a consortium member's tax group if the consortium member is resident in the UK or carries on a trade in the UK through a permanent establishment, or is established in an EEA jurisdiction. This change will be backdated to accounting periods beginning on or after 10 December 2014.

Loan relationships and derivative contracts

Draft legislation has been published amending the Loan Relationships and Derivative Contracts rules, which is to be included in the post-election Finance Act. Notable proposed changes include:

- aligning the tax computation more closely with accounting profits;
- strengthening protection against avoidance, including a new Regime Anti-Avoidance Rule ("RAAR"); and
- new corporate rescue exemptions for debtor credits on a debt release and debtor credits which arise from a substantial modification of debt.

The majority of the changes are scheduled to apply to companies' accounting periods beginning on or after 1 January 2016, but the RAAR will apply to arrangements entered into on or after 1 April 2015 and the corporate rescue exemptions will be backdated to apply in relation to releases and modifications which take place on or after 1 January 2015.

As previously announced the "late paid interest rules" are to be repealed with effect from 3 December 2014 (subject to limited transitional rules). This repeal will be included in the pre-election Finance Act.

Anti-avoidance

Loss refreshing

Anti-avoidance rules are being introduced, with effect from 18 March 2015, to prevent structures designed to "refresh" carried forward tax losses (i.e. trading losses, non-trading loan relationship deficits and certain types of management expenses). Such structures can involve a profit being generated which can be sheltered by existing losses whilst generating a fresh deduction for the company or another company connected with it. The announcement states that the new rules are not intended to affect normal tax planning around mainly commercial transactions but their scope will need to be considered carefully when the detailed legislation is published.

Entrepreneurs' relief

Corporate acquisitions are often structured to maximise the future availability of entrepreneurs' relief for individual managers who hold shares in the company. Structures have in the past been implemented to increase the number of individuals who are able to benefit from the relief. These typically involve management investing via a management company (a "manco" structure) or a partnership. Rules announced in the Budget will mean that individuals holding shares through these kinds of structure (including pre-existing structures) will no longer benefit from entrepreneurs' relief on sales of shares on or after 18 March 2015.

B Share Schemes

As announced in the Autumn Statement 2014, legislation to be introduced in the Finance Act 2015 will prevent companies wishing to return cash to shareholders from giving those shareholders a choice between an income and a capital receipt. Such structures are commonly known as "B Share" schemes. Capital treatment can be beneficial to individual shareholders who can utilise the base cost they have in the shares and their annual exemption to reduce their tax liability on the cash receipt. With effect from 6 April 2015, all returns received in these circumstances will be taxed in the hands of individual shareholders in the same way as a dividend.

Capital allowances

It has been confirmed that anti-avoidance legislation which was announced on, and takes effect from, 26 February 2015, will be included in the Finance Act 2015. The rules restrict capital allowances in certain transactions where plant and machinery has been acquired without incurring expenditure, and is then sold to a connected party, or sold and then leased back by, or made available under hire purchase arrangements to, the seller. If the new anti-avoidance rules apply, no capital allowances at all will be available.

The legislation applies if the seller has acquired plant and machinery without incurring either capital expenditure or "qualifying revenue expenditure" (very broadly, defined as revenue expenditure incurred on acquisition or on manufacture, in each case at an arm's length price) and any of the following situations then arises:

- the plant and machinery is transferred to a buyer, who then grants a long funding lease to the seller (or a connected person);
- the plant and machinery is transferred to a buyer, and a hire purchase contract is then entered into between the buyer and the seller (or a connected person); or
- the seller and buyer enter into a "relevant transaction" (this includes, in particular, a sale of plant and machinery by the seller to the buyer) and the seller and buyer are connected, or the plant and machinery continues to be used by the seller (or a connected person) under sale and leaseback arrangements.

In the case of a long funding lease or hire purchase arrangement, if the seller is not required to bring a disposal value into account in respect of the transfer to the buyer, then it (or the relevant connected party) is not entitled to claim allowances on the plant or machinery. In the case of a relevant transaction, if the seller is not entitled to bring a disposal value into account, then the buyer is not entitled to capital allowances.

Exemption from withholding tax for private placements

As announced in last year's Autumn Statement, the Government intends to legislate in the Finance Act 2015 to enable regulations to be made providing a new UK withholding tax exemption for interest paid on 'qualifying private placements'. Further detail can be found in our briefing note issued following the publication of the draft legislation in December 2014. Revised legislation is expected to be published next week but it has been confirmed today that, following consultation, the requirement that the security must be issued for a period of at least three years will be removed from the primary legislation. There are indications that the term "security" will in practice cover loans as well as bonds.

Diverted Profits Tax

As announced in last year's Autumn Statement, the Government intends to legislate in the Finance Act 2015 to tax "diverted profits" of multinational groups who enter into arrangements that (broadly speaking) result in profits from business that in substance is carried on in the UK not being subject to tax in the UK or elsewhere. Further detail can be found in our briefing note. The draft legislation published in the Autumn was criticised by Clifford Chance and others for being so broadly drafted that it would capture many ordinary course business arrangements and transactions (see our further briefing paper here). The Budget papers suggest that some of these criticisms have been taken on board, with a narrowing of the notification requirement and other detailed changes. It seems however, the fundamental approach outlined in the original draft legislation has not changed, although we will not know for certain until the text of the Finance Bill is published. The Government remains committed to passing the DPT in the Finance Bill so that it enters into force for profits accrued from 1 April 2015 (notwithstanding there is no time for Parliamentary scrutiny).

For further details on any of the above changes, please contact:

Jonathan Elman

David Harkness

Nicholas Mace

Bank Tax

Bank loss relief restriction

Legislation, first announced in the Autumn Statement 2014, to restrict the proportion of banks’ profits that can be offset by carried-forward losses to 50% will be included in the Finance Act 2015.

Under the restriction, "relevant reliefs" will be limited in use to 50% of the "relevant profits" of a company within the scope of these rules. The "relevant profits" in the calculation are after reliefs for the period, including group relief, but not including any of the relevant reliefs or reliefs carried back from later periods. For the purposes of the restriction the relevant profits are split into relevant trading profits and relevant non-trading profits. The restriction will take effect from 1 April 2015 and will only apply to relevant reliefs accruing prior to this date - any carried forward reliefs of these types arising from 1 April 2015 will not be restricted. There will be transitional rules for accounting periods straddling this date.

The calculation of the maximum amount of relevant relief allowed will be:

- for restricted brought forward trading losses, 50% of the relevant trading profits of the company for the period;
- for restricted brought forward non-trading loan relationship deficits, 50% of the relevant non-trading profits of the company for the period; and
- for restricted brought forward management expenses, the balance of 50% of the total relevant profits of the company, after reduction by the relief given under the first two categories.

Any unused reliefs can be carried forward and used in the usual manner, subject to the restriction, in future periods. Other reliefs brought forward (such as capital losses, or UK property losses) are not included in the restriction and can be brought forward and relieved in full.

The restriction will apply to "banking companies" – broadly a company that is authorised under FSMA to carry on certain regulated activities in the UK. Certain types of companies are excluded from the definition of banking company, e.g. insurance companies and asset managers.

The draft legislation (published in December 2014) contains two targeted anti-avoidance rules. The first is an anti-forestalling provision to prevent a banking group accelerating the use of their losses before the restriction comes into force. The second is intended to prevent profit shifting within banking groups after the rules come into force.

Following the technical consultation, an allowance of £25 million for groups headed by a building society will be included in the legislation. This allowance is intended to reduce the carried forward reliefs that are subject to the restriction.

Bank levy rate increase

The rate of the bank levy will be increased to 0.21% from 1 April 2015. A proportionate increase to 0.105% will be made to the "half rate", also with effect from 1 April 2015.

Banks' compensation payments

Banks’ customer compensation expenses will be made non-deductible for corporation tax purposes. The Government will consult on the detailed design of the measure and how it can be appropriately targeted. The change will be legislated in a future Finance Bill.

Administrative burdens?

One of the consequences of the abolition of annual tax returns is that information on income from bank and building society accounts will need to be supplied direct from savings institutions to HMRC. Currently savings institutions need to supply taxpayers with paper forms showing annually interest income ("975 statements") and are also required to give certain details of interest paid and tax deducted to HMRC. It is likely that this process will need to change and it remains to be seen what system changes are required (and how burdensome these are).

For further details on any of the above changes, please contact:

Jonathan Elman

David Harkness

Dan Neidle

Real Estate Tax

In contrast to Chancellor George Osborne's radical shake-up of Stamp Duty Land Tax on residential property in the UK in the Autumn Statement 2014, the 2015 Budget did not contain significant announcements relating to real estate taxation.

Stamp Duty Land Tax

The rates and thresholds for Stamp Duty Land Tax remain unchanged, both on commercial property transactions, and under the new regime for residential property transactions announced in the Autumn Statement 2014.

Proposals announced in the Autumn Statement 2014 in relation to multiple dwellings relief for certain superior interests in residential property such as shared ownership, and amendment of the definition of 'financial institution' for the purposes of the SDLT alternative property finance reliefs to include persons authorised to provide Home Purchase Plans, will be implemented in the Finance Bill 2015.

As announced in the Autumn Statement 2014, seeding relief for PAIFs and Co-ownership Authorised Contractual Schemes is to be introduced, and changes are to be made to the SDLT treatment of CoACSs in investing in property so that SDLT does not arise on the transactions in units. This is welcome although it still remains subject to the resolution of potential avoidance issues.

Capital Gains Tax

Capital Gains Tax on gains accruing on the disposal of UK residential property by non-UK resident individuals, trusts, personal representatives and narrowly controlled companies from 6 April 2015 will be implemented in the Finance Bill 2015, as previously announced.

Further, the Government will restrict access for a UK resident to private residence relief where a property is located outside the UK by reference to a 90 day usage test.

ATED

As announced in the Autumn Statement 2014, the ATED charge for the chargeable period 1 April 2015 to 31 March 2016 shall increase by 50% above inflation for residential properties worth more than £2 million.

For the 2015/2016 chargeable period the ATED charge will be as follows:

Property value	Charge for tax year 2015-16
More than £1m but not more than £2m	£7,000
More than £2m but not more than £5m	£23,350
More than £5m but not more than £10m	£54,450
More than £10m but not more than £20m	£109,050
More than £20m +	£218,200

For further details on any of the above changes, please contact:

David F Saleh

Funds

Investment Fund Managers

As announced in the Autumn Statement 2014, measures will be introduced in the Finance Act 2015 to "ensure that all sums which arise to investment fund managers for their services are charged to income tax".

The original Government announcement made clear that the new rules are not aimed at returns on personal investments made by individual fund managers (fund investors often require the fund management team to co-invest in a fund as part of the overall commercial arrangement) or at returns paid out by way of "carried interest" profit shares. Following consultation with industry bodies, the Government has stated that the draft rules published at the time of the Autumn Statement will be revised to better reflect industry practice and fund structures – it is to be hoped that the changes will reflect a better understanding of both fund co-investment and carried interest arrangements. The Government has also announced that changes will be made to the draft rules to restrict the charge on non-UK resident fund managers (the idea being that the rules should only apply to duties carried on by non-UK residents in the UK) and to ensure that the rules apply to investment trust managers. The new rules will take effect in respect of sums arising on or after 6 April 2015, regardless of when the fund in question may have been established or the relevant arrangements entered into. An updated draft of the legislation has not yet been published by the Government.

For further details on any of the above changes, please contact:

Anthony Stewart

Insurance

Global reinsurance

The Government announced that it would explore options to attract more reinsurance business to the UK by working with the industry and regulators to develop a new competitive corporate and tax structure for allowing Insurance Linked Securities to be domiciled in the UK. This alternative form of reinsurance makes greater use of capital markets and, in the Government's view, is a key growth opportunity for the sector.

Insurance fraud taskforce

The Insurance Fraud Taskforce, established in December 2014, today published an interim report setting out the areas that the group will explore: the encouragement of fraudulent claims; the drivers of policyholder behaviour; fraud deterrents in the claims process; and the role of fraud data. The Taskforce has made an early recommendation to the insurance industry to update guidance on the prevention of application fraud, which the Association of British Insurers and the British Insurance Brokers' Association have agreed to take forward this action by the end of 2015. It will publish full recommendations in its final report later in 2015.

For further details on any of the above changes, please contact:

Liesl Fichardt

David Harkness

Nicholas Mace

Oil and Gas

The Government has announced that it will be making a number of changes to the UK oil and gas taxation regime, with some of the changes having immediate or retrospective effect. The changes which are consistent with the "radical" reforms announced in December 2014 following the publication of the Wood Review, are designed to maximise the economic recovery of hydrocarbon resources whilst ensuring a fair return on these resources for the UK. The need for further changes has been driven to a large extent by the fall in world oil prices and the pressure that has put on the UK's North Sea oil industry.

Four new changes have been announced for inclusion in the Finance Act 2015:

- The Supplementary Charge ("SC") will be reduced from 30% to 20%. This is back dated to 1 January 2015 and comes on top of the 2% reduction from 32% to 30% announced last December.
- The Petroleum Revenue Tax ("PRT") rate is to be reduced from 50% to 35%. This will take effect for chargeable periods ending after 31 December 2015. PRT only applies in relation to older fields and the intention behind this reduction is to stimulate investment in these fields and extend their lifetimes.
- Following the Government's announcement in December 2014 that it would explore introducing a new basin-wide allowance to support continued investment on the UK Continental Shelf, the Government will be introducing a new "investment allowance" in relation to investment expenditure incurred from 1 April 2015. This new allowance will replace the existing offshore field allowances and simplify the existing regime. The way in which this works is that the allowance will exempt a portion of a company’s profits from the SC. The amount of profit exempt from the SC will equal 62.5% of the investment expenditure.
- The "Enterprise Zone" at Tees Valley will be extended to include "oil and gas decommissioning".

In addition, the Government intends to introduce the following changes in the Finance Act 2015 following its previous announcement of these in December 2014:

- The Ring Fence Expenditure Supplement has been extended from six to ten years for all ring fence oil and gas losses and qualifying pre-commencement expenditure incurred on or after 5 December 2013.
- The Government intends to introduce a high pressure, high temperature cluster area allowance. This is being introduced to support the development of high pressure, high temperature projects and to encourage exploration and appraisal activity in the surrounding area or ‘cluster’. The allowance will exempt a portion of a company’s profits from the SC. The amount of profit exempt will equal 62.5% of the qualifying capital expenditure a company incurs in relation to a cluster from 3 December 2014 onwards.
- The Government will provide £20 million of funding in 2015/2016 for seismic and other geosciences surveys. This is to boost offshore exploration in under-explored areas of the UK Continental Shelf.

For further details on any of the above changes, please contact:

David Harkness

Nicholas Mace

Tax Administration

Automatic exchange of information

Regulations will be made in March 2015 to implement various initiatives designed to facilitate international co-operation in tackling tax avoidance. The regulations will implement the UK's Automatic Exchange of Information Agreements, including the EU Directive on Administrative Co-operation (which implements the Common Reporting Standard within the EU). The regulations will create due diligence and reporting obligations for UK financial institutions, requiring them to identify accounts maintained for specified persons in jurisdictions with which the UK has entered into an automatic exchange of information agreement; and to collect and report information on such persons to HMRC. These regulations will also revoke and replace the current UK implementing regulations for FATCA, consolidating the requirements on automatic exchange of information and correcting some errors.

In advance of the receipt of data under the Common Reporting Standard in 2017, the Liechtenstein Disclosure Facility and Crown Dependencies Disclosure Facility will end earlier than expected, at the end of 2015 rather than in 2016. The Government will also offer a new "last chance" disclosure facility from 2016 to mid-2017, to encourage persons evading tax to disclose their arrangements early. This new facility will be on less generous terms than existing disclosure facilities, with penalties of at least 30% on top of tax owed and interest and no immunity from criminal prosecutions.

Provision will also be made to enable the Government to require financial intermediaries and tax advisers to notify their UK resident customers with UK or overseas accounts, to inform them about the Common Reporting Standard, the penalties for evasion and the opportunities to disclose.

Accelerated Payment Notices

The Finance Act 2015 will include provisions to ensure that where a company makes a tax return asserting a tax advantage which is then surrendered as group relief, HMRC will be able to issue an APN to the effect that the advantage may not be surrendered while the dispute is in progress. The Government also disclosed that HMRC has also identified a further 21,000 APNs which it intends to issue over and above its original estimated number.

Civil penalties for tax evasion

The existing civil penalty regime for offshore tax evasion will be amended in the Finance Act 2015 to introduce a new "aggravated" penalty of moving the proceeds of tax evasion in order to escape tax transparency. We expect that the penalty will apply to taxpayers which, after the legislation is enacted, either move hidden offshore assets from a jurisdiction which has committed to adopting the Common Reporting Standard to one which has not; or otherwise put in place arrangements to ensure the funds are not subject to reporting under the Common Reporting Standard; and have the intention of preventing HMRC from discovering their previous deliberate non-compliance. HMRC have previously indicated that this "aggravated" penalty will increase the total penalties faced by 50%.

Country-by-Country reporting

The Finance Act 2015 will introduce provision to enable regulations to be made to implement the country-by-country reporting template developed by the OECD. It is envisaged that these regulations will create a new requirement on multinationals with a parent company in the UK to submit an annual report to HMRC showing, for each tax jurisdiction in which they do business, the amount of revenue, profit before income tax and income tax paid and accrued; and their total employment, capital retained earnings and tangible assets. For each tax jurisdiction multinationals will also have to identify each group entity doing business and provide a description of the business activities which each entity engages in.

Direct recovery of debts

The Government has announced that, although it remains committed to introducing a power for HMRC to debit debtors' bank accounts directly to claim tax and tax credit debts due to HMRC, this will not be included in the Finance Act 2015 and will instead be included in a future Finance Bill.

General Anti-Abuse Rule (GAAR)

Legislation will be introduced in a future Finance Bill that will increase the deterrent effect of the GAAR by introducing a specific, tax-geared penalty that applies to cases tackled by the GAAR.

Disclosure of Tax Avoidance Schemes (DOTAS) and Promoters of Tax Avoidance Schemes (POTAS)

The Government intends to legislate in Finance Act 2015 to introduce changes to the DOTAS regime rules to ensure that they remain an effective information tool. Such changes will include measures to strengthen the descriptions of schemes that must be disclosed and expand the descriptions to include inheritance tax schemes, provide HMRC with powers to identify users of undisclosed schemes and publish information about promoters and schemes, require promoters to notify HMRC of certain changes to disclosed schemes, increase the penalty for users who do not comply with their DOTAS reporting requirements, introduce protection for persons wishing voluntarily to provide information to HMRC concerning failures to comply with DOTAS and require employers to notify employees of their involvement in schemes relating to their employment and to provide details of such employees to HMRC.

The Government also plans to introduce legislation in the Finance Act 2015 to enable HMRC to issue Conduct Notices to a broader range of connected persons under the POTAS regime and to stipulate that the 3-year time limit for issuing a Conduct Notice to a promoter who has failed to disclose a scheme commences from the date when such a failure is established.

The Government further announced that legislation will be included in a future Finance Bill targeting users who persistently enter into schemes which fail, referred to as "serial avoiders". Serial avoiders whose latest tax return is inaccurate as a result of a further failed scheme will be subject to a special reporting requirement and a surcharge. Further measures to name such serial avoiders will be developed and serial avoiders who have a record of trying to abuse reliefs will face restricted access to such reliefs. In addition, the Government intends to broaden the scope of the POTAS regime to include promoters whose schemes regularly fail.

For further details on any of the above changes, please contact:

Liesl Fichardt

Personal Tax

It was announced that the income tax personal allowance will be increased to £10,800 for 2016/17 and to £11,000 for 2017/2018. The higher rate threshold (above which individuals pay income tax at 40%) will also be increased at above the rate of inflation to £43,300 by 2017/18.

As announced in the Autumn Statement, it is intended that the Finance Act 2015 will include legislation making changes to some of the charges paid by non-domiciled individuals claiming the remittance basis of taxation. A new annual charge of £90,000 will be introduced for those who have been resident in the UK for at least 17 of the previous 20 years. The existing charge applicable to those who have been resident in the UK for at least 12 of the last 14 years will rise to £60,000.

The Government also announced its intention to conduct a review of the use of deeds of variation for tax purposes and, as announced in the Autumn Statement, the Government plans to legislate in the future to target inheritance tax avoidance through the use of multiple trusts.

For further details on any of the above changes, please contact:

Anthony Stewart

Savings Tax

Various measures to encourage savings will be introduced in a future Finance Act:

- An annual exemption from tax for the first £1000 of interest from banks or building societies (£500 for higher rate taxpayers);
- An ISA "tip in/tip out" mechanism to allow savers to take funds out of an ISA and then replace them within any tax year.

For further details on any of the above changes, please contact:

Anthony Stewart

VAT

VAT recovery relating to foreign branches

Following the decision of the European Court of Justice (the "CJEU") in *Credit Lyonnais* (C-388/11), the Government has announced changes to the VAT rules which are likely to affect the amount of VAT which can be recovered by financial institutions such as banks and insurance companies with overseas branch networks.

As a general matter, businesses which make taxable supplies (and certain supplies of financial services to non-EU persons) can recover the VAT they incur on related costs, whereas businesses which make exempt supplies are generally unable to recover their VAT. Businesses which incur VAT which is used to make both taxable and exempt supplies are known as "partly exempt" and have to use a "partial exemption method" to calculate the proportion of VAT they can recover.

Until now, partly exempt UK businesses have been able to take into account supplies made by their foreign establishments in calculating how much UK VAT they can recover under their partial exemption methods. However, in *Credit Lyonnais* the CJEU ruled that, under EU law, a business is not able to take into account supplies made by its foreign (whether EU or non-EU) establishments in calculating how much VAT it can recover.

The Government has announced that it will amend the UK VAT rules to bring them in line with this decision by providing that partly exempt businesses in the UK are only able to take into account supplies made by their UK establishments in calculating how much UK VAT they can recover under their partial exemption methods. This also deals with a concern that some partly exempt businesses have been artificially increasing their UK VAT recoveries by over-allocating costs to non-UK branches which make supplies which enable VAT recovery.

Businesses are required to implement these changes at the beginning of their next "longer period" (the period by reference to which VAT recovery claims are adjusted) that starts on or after 1 August 2015.

Banks and insurance companies with overseas branch networks will need to urgently review their partial exemption methods in order to determine whether these changes could result in loss of VAT recovery going forwards.

For further details on any of the above changes, please contact:

David F Saleh

Simon Corzberg

Pensions

Unlocking annuities

The Government has confirmed its plans to create a secondary annuity market by 2016 with a view to levelling the playing field in relation to the pension freedoms accorded to savers in last year's Budget. In particular, those savers were given much greater choice over how they use their defined contribution ("DC") pension pot instead of being required to purchase an annuity. The Government now wants to extend these flexibilities to those in retirement.

The intention is to enable the five million pensioners who are locked into annuities they have already bought, to have the option to sell their annuity contracts in exchange for cash lump sums. A consultation document to assess the feasibility of this measure has been issued alongside the Budget. The Government is proposing to remove the tax restrictions on retirees seeking to sell their annuity income to a third party, subject to agreement from their annuity provider. The proceeds of the sale could be taken directly or drawn down over a number of years and will be taxed only at their marginal rate. Currently, those wishing to sell their annuity income face a 55% tax charge, or up to 70% in some cases.

The Government will work alongside the Financial Conduct Authority ("FCA") in relation to providing guidance and consumer protection measures to safeguard against any mis-selling and to ensure that consumers are in a position to make an informed decision.

Tax relief

From 6 April 2016, the Lifetime Allowance ("LTA") will be reduced to £1 million from £1.25 million, saving £600 million a year.

From 6 April 2018, the LTA will be indexed to increase annually by CPI to ensure those still building up their pension pots are protected from inflation.

Appropriate independent advice in respect of pension transfer exercises

A new income tax exemption will be introduced in respect of the cost of providing mandatory advice on employer-led transfer exercises from defined benefit to DC pension schemes on or after 6 April 2015.

The policy objective is to prevent employees from being subject to an additional tax charge or NICs liability as a result of receiving government mandated advice, and also to protect employers from the NICs liability that would arise.

Under the Pension Schemes Act 2015 members will be required to obtain appropriate independent advice from an FCA approved advisor before the scheme can action the transfer after April 2015. This is intended to ensure that the implications of giving up a valuable benefit are fully understood. The scope of the tax exemption ensures that it will only apply when the employer bears the cost of providing the advice, and does not pass this on to employees through the use of salary sacrifice arrangements, for example.

For further details on any of the above changes, please contact:

Imogen Clark

Clare Hoxey

Hywel Robinson

Authors

Chris Davies
Global Head of Tax
T: +44 20 7006 8942
E: chris.davies
@cliffordchance.com

Jonathan Elman
Partner
T: +44 20 7006 8935
E: jonathan.elman
@cliffordchance.com

Liesl Fichardt
Partner
T: +44 20 7006 2044
E: liesl.fichardt
@cliffordchance.com

David Harkness
Partner
T: +44 20 7006 8949
E: david.harkness
@cliffordchance.com

Nicholas Mace
Partner
T: +44 20 7006 4679
E: nicholas.mace
@cliffordchance.com

Dan Neidle
Partner
T: +44 20 7006 8811
E: dan.neidle
@cliffordchance.com

David F Saleh
Partner
T: +44 20 7006 8632
E: david.saleh
@cliffordchance.com

Anthony Stewart
Partner
T: +44 20 7006 8183
E: anthony.stewart
@cliffordchance.com