SQUIRE SANDERS

THE BUDGET 2014: EMPLOYMENT

Onshore Employment Intermediaries

On 13 March 2014, the Government issued its response to the onshore employment intermediaries consultation, as well as practical guidance on what is meant by "supervision, direction or control". Despite strong opposition, the Government is ploughing ahead with the new rules, which will be in effect from 6 April 2014. Whilst the new rules are clearly very relevant to the recruitment sector, they will potentially affect any business that supplies services through individuals who are not their employees. See our alert Onshore Employment Intermediaries, Full Speed Ahead, Ready or Not! for what affected businesses should be doing to prepare.

Employee Expenses and Benefits

Following an ongoing review of employee expenses and benefits by the Office of Tax Simplification ("**OTS**"), a consultation will follow on a package of four simplifications:

- Allowing employers, on a voluntary and revocable basis, to payroll certain benefits and expenses;
- Abolishing the £8,500 lower paid employees rules;
- Introducing a statutory exemption for "trivial benefits"; and
- Replacing the expenses dispensation regime with a Reimbursed Expenses Exemption.

A review will also be conducted of the rules underlying the tax treatment of travel and subsistence expenses.

The Government intends that following consultation, legislation will be introduced in the Finance Bill 2015.

Dual Employment Contracts

Following an announcement in the Autumn Statement, draft legislation was published in January aimed at preventing the use of "dual contracts", i.e. high earning non-domiciled individuals creating an artificial division of the duties of one employment between contracts in the UK and overseas. The legislation, which applies to income arising on or after 6 April 2014, meant that certain overseas income will be taxed on an arising rather than a remittance basis where tax is not payable on the overseas contract at a rate broadly comparable to UK tax rates.

The Government has confirmed following consultation that charges will not arise on dual contracts which are not motivated by tax avoidance and the legislation in the Finance Act will:

- Prevent charges arising on directors with less than a 5 percent shareholding in their employer;
- Ensure that a charge cannot arise on income related to employment prior to 2014/2015; and
- Take into account employments held for legal/regulatory reasons.

As drafted, the legislation does not treat the employee as working for the UK employer in respect of the duties of the overseas employment so the UK employer should not have any obligation to operate PAYE on the payments.

Changes to PAYE Reporting Obligations and Penalties

Regulations affecting the operation of PAYE were published prior to the Budget and have the following effect:

- Employees with nine or fewer employees will be able to report PAYE information on or before the last payday in the tax month rather than on or before the date of each payment;
- Real Time Information reporting will be applied to certain employees who deduct tax and/or NICs from their own employment. HMRC will be required to notify the employee that the direct collection procedure applies and the employee will have a period of 30 days in which to object to RTI reporting; and
- A tolerance level for late payment of PAYE and Construction Industry Scheme payments has been introduced whereby a payment will be treated as made "in full" if the difference between the amount paid and the amount due is no more than £100.

The regulations also relax HMRC's ability to issue a "Demibourne Direction" which transfers income tax liability from an employer (under PAYE) to the employee if the employee has self-assessed the relevant tax or paid the tax on account.

The regulations come into effect for different employers from different dates but largely take effect from 6 April 2014.

Child Care Tax Relief

As announced in the Budget 2013, tax free childcare will be introduced from 2015 to encourage more parents to return to work or work longer hours. Following a consultation, the Government has announced that the proposed annual cap of £1,200 per child will be increased to £2,000 and that tax free child care will be introduced for children under 12 within the first year of the scheme's operation, which is quicker than initially anticipated.

Income Tax Rates and Thresholds 2014-15

As planned, there will be an increase in the personal allowance (for those born after 6 April 1948) to £10,000 for 2014/2015 and this will increase once again to £10,500 for the tax year 2015/2016. The basic rate band will remain at £31,865 (for 2014/2015) and will reduce marginally to £31,785 in 2015/2016.

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