KEY TAX POINTS FROM TODAY'S STATEMENT

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TAXATION AWARDS WINNERS

This afternoon, the Chancellor of the Exchequer, Philip Hammond, delivered his first (and last) Autumn Statement to Parliament.

The Elman Wall Tax Team has assembled and put together a brief summary of some the main points that could impact on you or your business.

As Britain gears up to leave the European Union, will today mark the beginning to "the end of austerity" or merely leave us feeling just as uncertain as before?

ADMINISTRATION

Headline: Abolishing the Autumn Statement

Detail: It is clear that the new Chancellor has a sense of humour. To quote from his speech:

"This is my first Autumn Statement as Chancellor. After careful consideration and detailed discussion with the Prime Minister, I have decided that it will also be my last."

Was this about to be one of the shortest tenures as the role of Chancellor in history? No. Was the announcement that the Autumn Statement itself was being abolished? No. In fact, it was proposed that the Budget be moved to the autumn and the Autumn Statement to become a Spring Statement.

EW Tax Team Say: *Although this may sound trivial, this is actually an important statement of intent when it comes to tax policy. There are two implications of this. Firstly, there should be a greater period with which to consider matters being introduced from the commencement of the next tax year, rather than just a hurried few weeks. For important changes, this should then allow businesses and individuals to better prepare for measures that are being introduced. Secondly, this should also give Parliament a greater say in scrutinising the relevant measures, not least when it comes to the associated Finance Bill. The 2016 Finance Bill ran to over 1,000 pages, including explanatory notes, which, given the time allotted before it was passed, meant MPs had to be world-beating speed readers to give it proper consideration. It is therefore hoped that, going forward, new tax legislation will be given the full scrutiny it needs.*

Corporation Tax

- Rate of tax reduce from April 2017 to 19%

  Reducing to 17% by April 2020.

- Annual Investment Allowance remains at £200,000.

- 100% First Year Allowance (FYA) on low emission vehicles extended to March 2021.

- FYA extended to cover charge-points for electric cars from today until March 2019.

Headline: Making Tax Digital – still progressing…?

Detail: In response to the plethora of consultations released in August (surely not deliberately timed to coincide with everyone's summer holiday?!) there was a very passive statement about the MTD proposals. The Chancellor simply announced that in January 2017 the Government will "*publish its response to the Making Tax Digital consultations and provisions to implement the previously announced changes.*"

EW Tax Team Say: *The consultation period closed on 7 November 2016, and in the run up to that date it seemed that everyone outside HMRC could foresee issues with the apparently rushed timetable for these major changes. Most support the underlying changes, and eventually this should assist businesses and individuals in being more compliant with less hassle in relation to their tax affairs. However, to have this commence from a little over 15 months' time is seen to be too short a period, especially when there are so many technology related issues to be resolved. It had thus been hoped that the Autumn Statement may provide some indication that the deferral being requested was being taken seriously. It appears, however, we'll need to wait for a couple more months before finding out.*

BUSINESS TAXES

Headline: Improvements to treatment of company tax losses

Detail: Following further consultation (and as announced previously), losses incurred on or after April 2017 can be utilised against other income streams. In addition, the maximum losses that can be relieved in any given period is restricted to £5 million in a standalone company or a group.

EW Tax Team Say: *We welcome this change in light of the commercial uncertainties in the post-Brexit era. Businesses are/will be encouraged to invest and diversify. Although this may only impact on a limited number of businesses, nonetheless this could have significant positive cash flow implications.*

Headline: Non-resident companies subject to corporation tax regime

Detail: HMRC are seeking to cast their net wider than is currently the case. The proposal is to bring all non-resident companies receiving taxable income from the UK into the corporation tax regime. This will be subject to a future consultation. There are no specifics yet, but a warning shot has been fired.

EW Tax Team Say: *These are part of wider measures that the Government has announced to curb the tax leakage from UK plc. These are aimed at ensuring parity on the taxation of UK income from resident and non-resident companies. Of course, some sources of income are already subject to some sort of withholding tax in the UK, so the change may be limited.*

Headline: Corporation tax rates to be reduced to 17%

Detail: Despite the change at No. 11 there has been a reaffirmation that the business tax road map as previously set out will continue to be adhered to. Accordingly, this includes cutting the rate of corporation tax to 17% by 2020.

EW Tax Team Say: *Although this change was announced earlier in this year's Budget, today's news is welcome in providing certainty for businesses. In seeking to give the UK one of the world's most competitive corporation tax rates, it remains to be seen whether the competitiveness between May and Trump in being able to offer the lowest corporation tax rates has any further impact. Watch this space!*

Headline: First-Year Allowance for Electric Charge-Points

Detail: From today, until 31 March 2019 [corporation tax] or 5 April 2019 [income tax], a 100% first year allowance is available on the acquisition of new and unused electric charge-points. This will mean that tax relief can be claimed in full in the year of acquisition, rather than via capital allowances.

EW Tax Team Say: *This is an attempt to increase the availability of charging points for electric vehicles in order to make their use more viable. While a greater network of charge-points will mean there is less chance of a driver being 'caught short', it is not clear that this is the best way to achieve it. The allowance is only useful where an entity has already utilised its Annual Investment Allowance (currently £200,000 p.a., though this has to be shared if the company is a member of a group, and is not available to mixed partnerships) for the year on other fixed asset purchases.*

EMPLOYEE MATTERS

Headline: Tax Relief for the employees' expenses to be reviewed

Detail: At Budget 2017, the government will call for evidence on the use of income tax relief for expenses incurred by employees, even if these are not reimbursed.

EW Tax Team Say: *The current rules permit a deduction to be claimed by an employee in respect of expenses incurred "wholly, exclusively and necessarily" in the performance of their duties.*

An employee using their own car is also allowed to claim a deduction in respect of business mileage, though not in respect of travelling to training courses. Where genuine business expenses are reimbursed, it is hard to see an argument that would result in a tax charge on the reimbursement. It is easier to see an argument that would result in expenses that were not reimbursed not generating a deduction, but the rules for tax relief for employees are already very restrictive. Overall, the message has to be 'wait and see'.

Income Tax

- Personal Allowance £11,500 for 2017/18

  £12,500 by 2020.

- Higher Rate Tax Band £45,000 for 2017/18

  £50,000 by 2020.

- Income rates remain unchanged.

- 2 x £1,000 tax allowances for occasional jobs and property income from April 2017.

Headline: Valuation of benefits in kind to be reconsidered

Detail: Under the current rules, the majority of benefits are calculated on the cost to the employer rather than the value of the benefit to the employee. The principal benefits that are calculated differently are company cars, which are based on emissions, loans, and accommodation benefit, which is based on the rateable value in 1973 (in England and Wales).

EW Tax Team Say: *This only seems to be an announcement of an intention to start a consultation. It seems unlikely that the special regimes for cars and loans would change, though the specific rates might. This leaves accommodation, which is based on outdated values, thus seeming ripe for change, and the general rules. In most cases, the value of the benefit to an employee will exceed the cost to the employer (as economies of scale will be lost) so it seems plausible that the government will make this change in order to increase the tax take.*

National Insurance

- Employees and Employers thresholds aligned - £157 per week from April 2017.
- Class 2 contributions to be abolished from April 2018.
- Employer's NICs will apply to the excess of termination payments over £30,000.

Headline: Salary Sacrifice to be withdrawn

Detail: Under the current rules, it can be advantageous for an employee and their employer to agree to reduce the former's salary in exchange for the latter providing benefits. The advantage of this was that the employee would not suffer national insurance (potentially at 12%) on the benefit and some of the saving could then be passed onto the employer. From April 2017, new arrangements will result in a national insurance charge on the employee, except where they relate to pensions, childcare, cycle to work schemes or ultra-low emission cars. Arrangements in place prior to April 2017 will be allowed to continue for one year, or four if they relate to accommodation, cars or school fees.

EW Tax Team Say: *This seems ill-thought-out as the commentary published does not comment on 'normal' benefits, where no salary sacrifice is involved, or how salary sacrifice is to be defined, though this may change when the draft legislation is published. Certainly it seems plausible that this will simply result in employees being charged national insurance on any benefit in kind.*

However, it is clear that there is a window of opportunity to create a new scheme that will be 'grandfathered' in under the transitional rules. The position may be worse in respect of training courses, where provision by an employer can be tax free but an employee would not receive tax relief on the equivalent expense.

VAT

Headline: Changes to the Flat Rate Scheme (FRS)

Detail: The government will introduce a new 16.5% rate from 1 April 2017 for businesses with limited costs, such as many labour-only businesses. As of today, they have implemented anti-forestalling provisions.

EW Tax Team Say: *This will help level the playing field, while maintaining the accounting simplification for the small businesses that use the scheme as intended. This is aimed to target people abusing the system, and businesses using the FRS may need to revaluate whether they use the scheme.*

PAYE MATTERS

Headline: National Insurance Simplification

Detail: From April 2017, the government has announced the equalisation of employee and employer Class 1 NI thresholds. This means that now, Class 1 NI will be levied on both the employer and the employee for each employee earning £157 or more per week. The rate of NI is not changing, however, with the employer still paying at a rate of 13.8% and the employee paying at rates of 12% and 2%. The government also confirmed previously announced changes to NI for those who are self-employed, with Class 2 NI to be abolished from April 2018.

EW Tax Team Say: *This is a clear indicator that the government is trying (with pressure from the Office of Tax Simplification) to tackle the perception that the UK tax system as a whole is overly complicated. Four different classes of NI (prior to the abolition of Class 2) and further sub divisions within Class 1, means that this is a good starting point in order to shift this perception. This is more of an admin change, as the overall tax effect of the changes to Class 1 are minimal and the abolition of Class 2 is likely to be counteracted by changes to Class 4. This could potentially be why the government announced this change very early, without mentioning any possible repercussions. It is also likely going forward that the self-employed will get their state pension credits via Class 4.*

Headline: Tightening Grip of Benefits in Kind

Detail: From April 2017, an employee who wants to "make good" on a P11D benefit in kind will have to make the repayment to their employer by 6 July in the following tax year.

EW Tax Team Say: *To explain the above, if an employee receives a benefit in kind via form P11D i.e. not a benefit with PAYE operated, they can negate any tax due by repaying or "making good" the benefit. In the past, an employee may have not physically repaid the benefit, but simply owed their employer the monies, whilst still mitigating any tax due. This is a particular issue when looking at circumventing benefits in kind on overdrawn loans to participators. Where previously a simple interest charge could have been accrued against, for example, a director's loan account, now it will need to be physically paid up by 6 July of the following tax year. It is this specific point that we think will affect the most people, especially those operating as owner-managed businesses.*

The government appear to be clamping down on benefits in kind altogether and what was previously a fairly woolly area appears to be gaining some rigidity and structure. Furthermore, the review of all benefits and expenses by the government gives the feeling that it is a part of the tax system that they are particularly unsatisfied with and therefore may make further changes to down the line.

Savings

New savings bond with NS&I:

- Paying 2.2% on max. investment of £3,000.
- 3 year bond available from Spring 2017.

SHARE SCHEMES

Headline: Employee Shareholder Status (ESS) Scrapped

Detail: The ESS was introduced in 2013. The legislation allowed for employees to acquire shares in their employing company in exchange for giving up certain employment rights. The first £2k of shares issued were not subject to income tax and the first £50k of shares issued were exempt from capital gains tax.

In the 2016 Spring Budget, the government announced that the capital gains exemption would be subject to a lifetime limit of the first £100k worth of gains.

The government has now announced that all tax advantages linked to shares awarded under ESS, on or after 1 December 2016, will be abolished.

EW Tax Team Say: *The ESS was initially introduced with the intention of reducing regulatory burdens on business, incentivising employees and increasing flexibility.*

Data released by HMRC suggests that initial take up of the scheme was limited. Due to the restriction of employment rights, employee participants of the ESS were required to obtain independent legal advice funded by the employer.

In many cases, the cost to the employer of funding the shares, plus legal advice, exceeded the value of any employment claims likely to be brought against them, hence rendering the scheme worthless as envisaged.

The ESS became most attractive to key/ senior employees who were using it as a means to obtain tax free capital gains, as they were less worried about the loss of employment rights, as opposed to incentivising the ordinary employee. Perhaps its demise, or at least the removal of the tax advantages, is thus of no surprise.

National Living Wage

Applies to individuals over 25 years old:

- Increased to £7.50 per hour from April 2017.
- £9 per hour by 2020.

Insurance Premium Tax

- Increased to 12% from June 2017.