What does the Chancellor’s “mini budget” mean for employers?

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On 23 September 2022, the Chancellor of the Exchequer, Kwasi Kwarteng, delivered the Autumn Statement – dubbed the "mini budget" – to Parliament. In this briefing, we take stock of the key points of interest for employers.

The Chancellor's mini budget outlined proposals to grow the economy at a rate of 2.5% in the medium term and put an end to the weak economic growth seen over recent months. The "Growth Plan 2022" contains several key employment and employment tax measures that will have an impact on employers.

Repeal of the recent IR35 reforms

One of the most significant and surprising announcements concerned the changes to the IR35 regime. The off payroll working rules – commonly known as "IR35" – were introduced in 2000 to crack down on the problem of tax avoidance through "disguised employment". Disguised employment is where a worker supplies their services to an end user client via an intermediary (usually a personal service company controlled by the worker) to benefit from the tax treatment afforded to contractors, when, in reality, the relationship is more akin to one of employment.

The IR35 rules sought to tackle this problem by requiring the intermediary to determine whether the worker would be deemed an employee (or an office holder) of the client for tax purposes if there was a hypothetical direct contract between them (the status determination). Where a worker was deemed to be an employee for tax purposes, then the intermediary was obliged to tax the worker as an employee. The problem was that the responsibility for making the status determination rested with the intermediary. In practice, this meant that the worker – with a vested interest in <u>not</u> being an employee for tax purposes – was assessing his or her own tax status. The client in the equation had no role in the process and no potential liability.

To address this problem, the rules were reformed in 2017 (in the public sector) and 2021 (in the private sector), to remove the intermediary's role in the process. Responsibility for making the status determination shifted to the client. If the worker was deemed to be an employee for tax purposes, the obligation to deduct income tax and employee National Insurance Contributions (**NICs**), and to pay employer NICs, shifted to the entity sitting immediately above the intermediary in the contractual chain. You can read more about these reforms **here**.

However, from 6 April 2023, the reforms made to the IR35 regime in 2017 and 2021 will be repealed. This means that intermediaries will once again become responsible for assessing their own tax status and paying tax and NICs, despite the previous concerns about tax avoidance.

Removal of the cap on bankers' bonuses

A cap on bankers' bonuses has been in place since 2014 and limits bonus payments to either 100% of fixed pay or 200% of fixed pay provided shareholder approval is given, as part of EU-wide regulatory measures put in place following the credit crunch. The Chancellor announced that this cap would be removed on the basis that it either leads to the inflation of fixed pay or drives banking activity outside the EU. Further, the Government's view is that pay in the form of bonuses aligns the incentives of the individual with those of the bank, which, in turn, will support the growth of the UK economy. However, a return to the days of eye-watering bonus awards may yet herald a rise in disputes about the amount of bonus awarded, as well as sex discrimination or equal pay disputes.

There has been no suggestion that other limitations on remuneration in the financial services sector will be removed, namely the rules on deferrals, malus and clawback.

Cuts to income tax and national insurance

The basic rate of income tax will decrease from 20% to 19% in April 2023. The additional rate of income tax of 45% charged on taxable income over £150,000 will be abolished in April 2023. This means that the higher rate of income tax of 40% (which is unchanged) will apply to all income above £50,270. In addition, the 1.25% increase to the taxation of income earned from dividends will be reversed from 6 April 2023. Income tax thresholds will remain frozen until April 2026.

The temporary 1.25% increase in NICs rates that took effect in April 2022 will be reversed on 6 November 2022. Further, the 1.25% Health and Social Care Levy which was due to replace the temporary NICs increase from April 2023 will be cancelled.

Expansion of company share option plans

Company share option plans (**CSOPs**) are tax-advantaged discretionary share option plans under which employers may grant options to employees. Currently, the maximum value of options that may be granted under a CSOP is £30,000. From April 2023, qualifying companies will be entitled to grant options up to a value of £60,000. Further, the qualification rules will be relaxed to widen access to CSOPs.

Introduction of "investment zones"

Discussions are underway with 38 local authorities to create special "investment zones" across England where businesses will, amongst other things, benefit from zero rate employer NICs on earnings up to £50,270 for all new employees who work in the zone at least 60% of the time. No timescale for introducing the investment zones has been provided.

New limits on industrial action

In response to the train and tube strikes seen over the Summer, the Chancellor announced that new legislation will be introduced to ensure that minimum service levels are in place for transport services. The aim is to limit the impact that industrial action has on travel. Further, new laws will be introduced to require trade unions to put pay offers from employers to a members' vote, with the result that strike action can only be taken if that offer is rejected by members.

Abolition of the Office of Tax Simplification

The Office of Tax Simplification is to be abolished and instead the Treasury and HMRC will be tasked with simplifying the tax system. We understand that the OTS will continue with its review into hybrid and remote working arrangements, which is due to be published next year.

[HM Treasury – The Growth Plan 2022]()

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