

CHAVEREYS

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DRAFT FINANCE BILL 2020

The Government has published a draft Finance Bill for 2019-20, the content of which could change following consultation. The consultation period is open for contributions by tax professionals and 'other interested parties' until 5 September 2019. After the consultation period has closed, a Finance Bill 2020 will be published then considered by Parliament before receiving Royal Assent and becoming the Finance Act 2020 next year.

Here are some of the key changes:

Matters for individuals

Changes to ancillary reliefs in Capital Gains Tax Principal Private Residence Relief

Principal Private Residence (PPR) relief is designed to ensure no Capital Gains Tax arises when a person sells or otherwise disposes of a dwelling that has been used as their only or main residence.

- Where a dwelling has only ever been used as that person's only or main residence, no Capital Gains Tax is payable. However, subject to certain reliefs and exemptions that may apply, PPR relief is lost for those periods where they were not in occupation.
- The draft Bill includes changes to two ancillary reliefs which should take effect from 6 April 2020:
 - Currently, where a property is or has been occupied as the owner's only or main residence, the final 18 months of their period of ownership always qualifies for PPR relief, regardless of the property's use.

From 6 April 2020, the final period exemption will be reduced from 18 months to 9 months.

- Currently 'lettings relief' is available where part of a property is let and exclusively used by tenants, or when a person lets out a whole dwelling, which has at some stage been their main residence. Relief is given on the lesser of the amount of PPR relief available, the gain attributable to the letting, or £40,000.

From 6 April 2020, this lettings relief will only be available where an owner is in shared occupancy with the tenant.



Income Tax relief and the Enterprise Investment Scheme approved knowledge-intensive fund

The draft Bill will introduce an 'approved knowledge-intensive fund' from April 2020 which allows individuals to invest through nominees including an investment fund manager and:

- requires funds to focus on investments in knowledge-intensive companies;
- gives approved funds a longer period over which to invest fund capital (requiring 50% investment within one year and 90% within two years, compared to the current requirement of 90% within one year); and
- allows investors to claim Income Tax relief against liabilities in the tax year, or the previous tax year, before the fund closes.

Capital Gains Tax relief on loans to traders

- The draft Bill will widen the scope of the Capital Gains Tax relief in respect of loans made to traders, where these loans have become irrecoverable, to ensure the relief applies to borrowers located anywhere in the world and not just the UK.

The change is made in consequence of a reasoned opinion issued by the European Commission that current UK law breaches the principle of free movement of capital.

- The change will have effect from 24 January 2019.

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Inheritance Tax and excluded property added to and transferred between trusts

- The draft Bill will provide that where property is added to a settlement, the domicile of the settlor will be considered for the purposes of the excluded property rules at the time of the addition rather than at the time the settlement was first created. This will ensure that additions to trusts, by UK domiciled or deemed domiciled individuals, created when they were non-domiciled are within the scope of Inheritance Tax.
- The change will have effect from Royal Assent.



Matters for companies and businesses

Rules for off-payroll working from April 2020

These new rules will not apply to 'small' companies. A company is small if it meets two out of the following three threshold tests:

Annual turnover – not more than £10.2 millions
Balance sheet total – not more than £5.1 millions
Number of employees – not more than 50

Many contractors choose to work for clients using their own limited companies. These are sometimes referred to as 'personal service companies'. The personal service company rules (known as 'IR35'), apply in situations where the worker would be treated as an employee of the client if the personal service company did not exist.

The effect of these rules is to deem income received by the company as salary received by the worker, thereby being subject to PAYE and National Insurance.

The responsibility for implementing the IR35 rules has always rested with the personal service company. However, from April 2017, rules were introduced in the public sector to make the client ultimately responsible for implementing IR35.

- The draft Bill will extend the public sector reform of the IR35 rules to all engagements with large and medium-sized organisations. This will shift responsibility for operating the off-payroll working rules from the individual's personal service company to the engaging organisation for contracts entered into, or payments made, on or after 6 April 2020.

Corporate capital loss restriction for Corporation Tax

Rules have already been introduced such that, from 1 April 2017, where a company has brought forward income losses, the amount of profit that can be relieved is limited to 50%, when applied to profits exceeding £5 millions.

The draft Bill will introduce a restriction of 50% on the proportion of chargeable gains companies can relieve with carried forward capital losses for accounting periods ending on or after 1 April 2020. The £5 millions limit available against the corporate income loss restriction may be shared with companies' chargeable gains.

Deferral of Corporation Tax payments on EU group asset transfers

The draft Bill will allow UK companies, or those with a UK permanent establishment, to defer payment of Corporation Tax for up to five years on assets transferred to a member of the same group of companies resident in another EU or EEA state.

The legislation is being introduced in response to the decision of the First-tier Tribunal in Gallaher Ltd [2019] UKFTT 207 (TC) that current UK law, which permits deferral for transfers between companies subject to UK Corporation Tax, places a restriction on the EU principle of freedom of establishment.

The changes apply with immediate effect from 11 July



Changes to protect tax in insolvency cases

The draft Bill will amend insolvency legislation with effect from 6 April 2020 to make HM Revenue & Customs (HMRC) a secondary preferential creditor for the distribution of assets in the event of insolvency in respect of taxes collected and held by businesses on behalf of other taxpayers, including VAT, PAYE, employee National Insurance and Construction Industry Scheme deductions. The rules will be unchanged for taxes owed by businesses themselves, with HMRC remaining an unsecured creditor for Corporation Tax and employer National Insurance.

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Tax abuse using company insolvencies

'Phoenixism' tax avoidance schemes try to receive favourable Capital Gains Tax rates rather than Income Tax treatment. Such schemes involve winding up a company in an attempt for an individual shareholder to receive undistributed profits as a capital distribution, rather than as a dividend. Once the company is wound up, the individual then carries on the same or similar activity, often using a newly formed company.

In 2015 the Government announced new targeted anti avoidance rule (TAAR) legislation to end this type of 'phoenixism'.

- The draft Bill will provide for directors and other connected persons, if certain conditions are met, to be jointly and severally liable for amounts due to HMRC from companies in cases of 'phoenixism' or in other circumstances where tax liabilities are sidestepped involving the misuse of insolvency.

Transfer of unlisted securities to connected companies for Stamp Duty and Stamp Duty Reserve Tax

- The draft Bill will extend the Stamp Duty and SDRT market value rule to the transfer of unlisted securities to connected companies, targeted at contrived arrangements where there is an issue of shares by way of consideration for the transfer.
- The legislation will also amend the rules on disqualifying arrangements to prevent a second Stamp Duty charge arising on most share-for-share exchanges as part of a partition demerger.
- These changes will have effect from Royal Assent.

Matters for all

Share loss relief for Income Tax and Corporation Tax

- The draft Bill will widen the scope of share loss relief to ensure it applies to qualifying investments in companies located anywhere in the world and not just the UK.

An additional reporting requirement will be introduced for the claimant to notify HMRC of the tax residency of the company that issued the shares.

The change is made in consequence of a reasoned opinion issued by the European Commission that current UK law breaches the principle of free movement of capital and will have effect from 24 January 2019.

Technical and procedural amendments to the General Anti-Abuse Rule

The General Anti-Abuse Rule (GAAR) was introduced in Finance Act 2013 in order to counteract tax advantages arising from 'tax arrangements' that are 'abusive'.

The current process for pursuing abusive tax arrangements under the GAAR gives HMRC a fixed 12 month window to gather information and consider whether to continue a GAAR challenge.

- The draft Bill will allow HMRC to issue new 'protective GAAR notices' to extend the 12 month window. Taxpayers will have the right to appeal a GAAR adjustment 12 months after the protective GAAR notice is issued.

For any information on this, or any other topic, please contact us on :

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