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Spring Statement 2022

Tax analysis

Tax analysis: A summary of the key tax-related announcements made with the Spring Statement on Wednesday 23 March 2022.

The Chancellor of the Exchequer, Rishi Sunak, delivered his Spring Statement on Wednesday 23 March 2022.

Alongside the Spring Statement, HM Treasury and HMRC published a collection of policy papers, including one on the new three-part Spring Statement Tax Plan. The stated aim of the tax plan is to 'strengthen' the UK economy by cutting taxes to help families with the rising cost of living (the first part of the plan), boost growth and productivity by incentivising business investment in capital, people and ideas (the second part of the plan) and letting people retain more of what they earn (the third and final part of the plan).

Headline-grabbing announcements included:

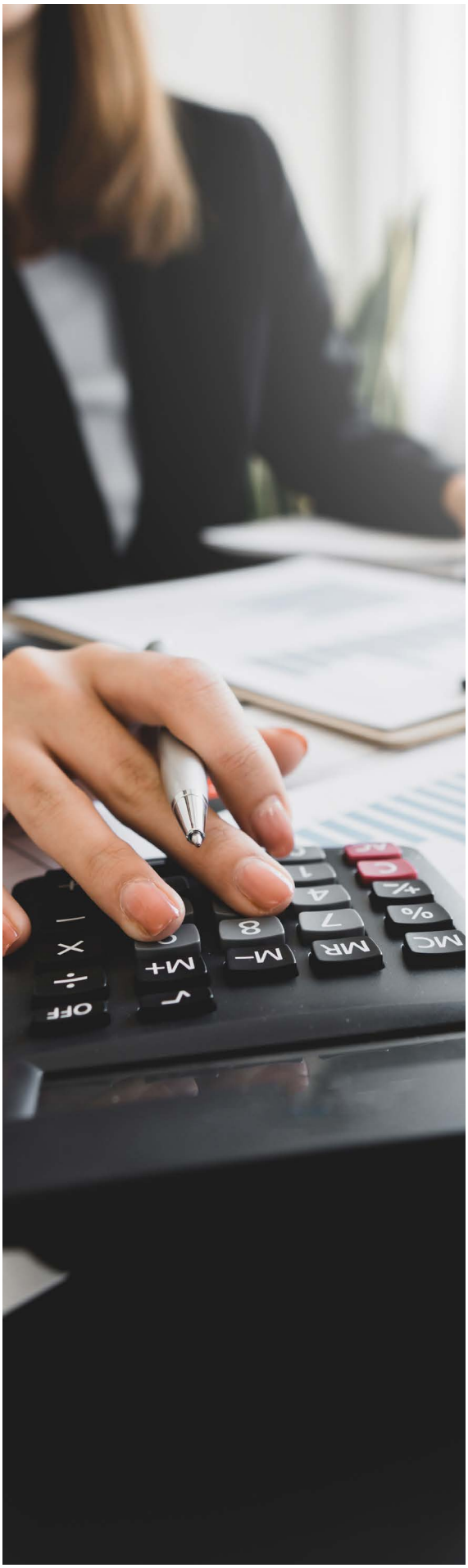
- a 12-month cut to fuel duty by 5p a litre (from 6pm on 23 March 2022)
- an increase in the threshold after which National Insurance contributions (NICs) apply to earnings so that (for employed earners, from July 2022) this threshold will align with the annual income tax personal allowance set at £12,570
- a 1% cut to the basic rate of income tax in England, Wales and Northern Ireland from April 2024 to 19%, and
- from April 2023, measures to incentivise business investment by reforming capital allowances and R&D reliefs, with decisions on further reforming measures in these areas coming this autumn

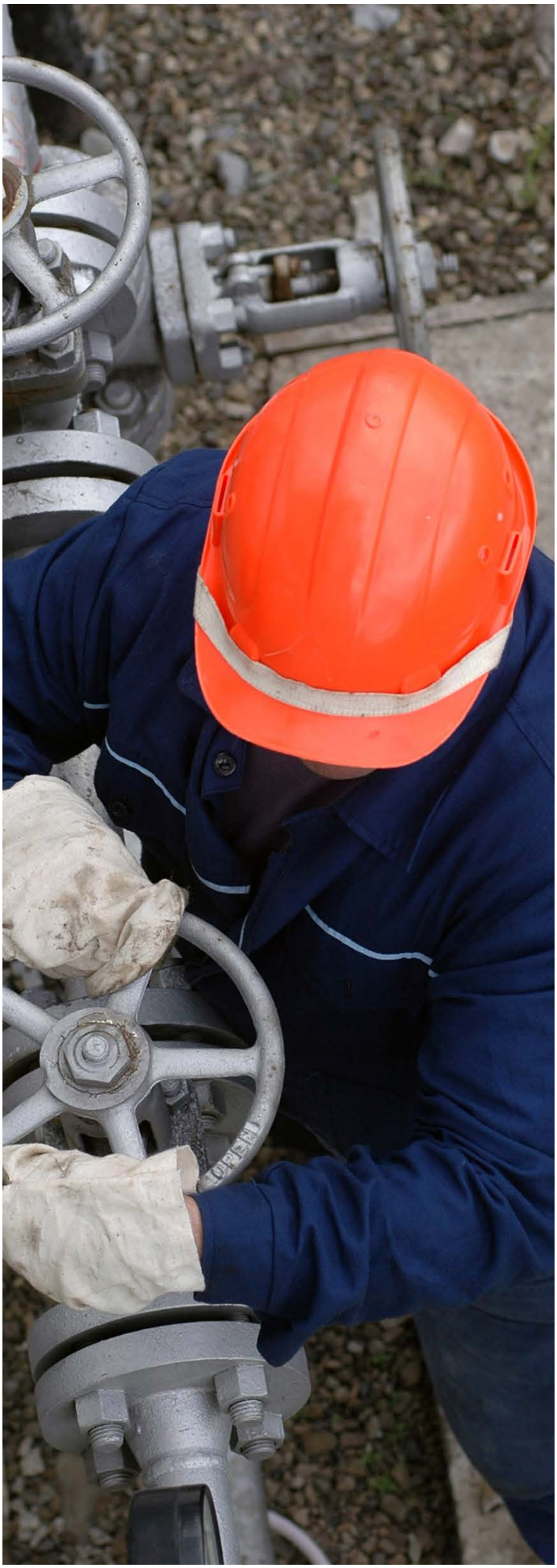
On the energy front, from 1 April 2022 until 31 March 2027, a zero rate of VAT will apply to the installation of energy-saving materials in residential homes in England, Wales and Scotland. Much fanfare accompanied this announcement—the government underlining that this cut was only possible because of Brexit, although it also had to admit that because of the Northern Ireland Protocol, this VAT cut could not be implemented in Northern Ireland. The Chancellor also decided to bring forward by 12 months (to April 2022) the implementation of the green reliefs for business rates. It is noteworthy that the Chancellor did not cut the VAT rate on supplies of domestic gas and electricity or impose a tax on energy companies.

The Chancellor resisted the temptation to extend the coronavirus (COVID-19) related VAT cut for the hospitality sector which comes to an end on 31 March 2022, and confirmed that the health and social care levy will be going ahead from April 2022 as planned.

The government also announced that it will be investing £161m over the next five years to increase HMRC's compliance and debt management capacity.

For the key Private Client announcements, see News Analysis: Spring Statement 2022—Private Client analysis.





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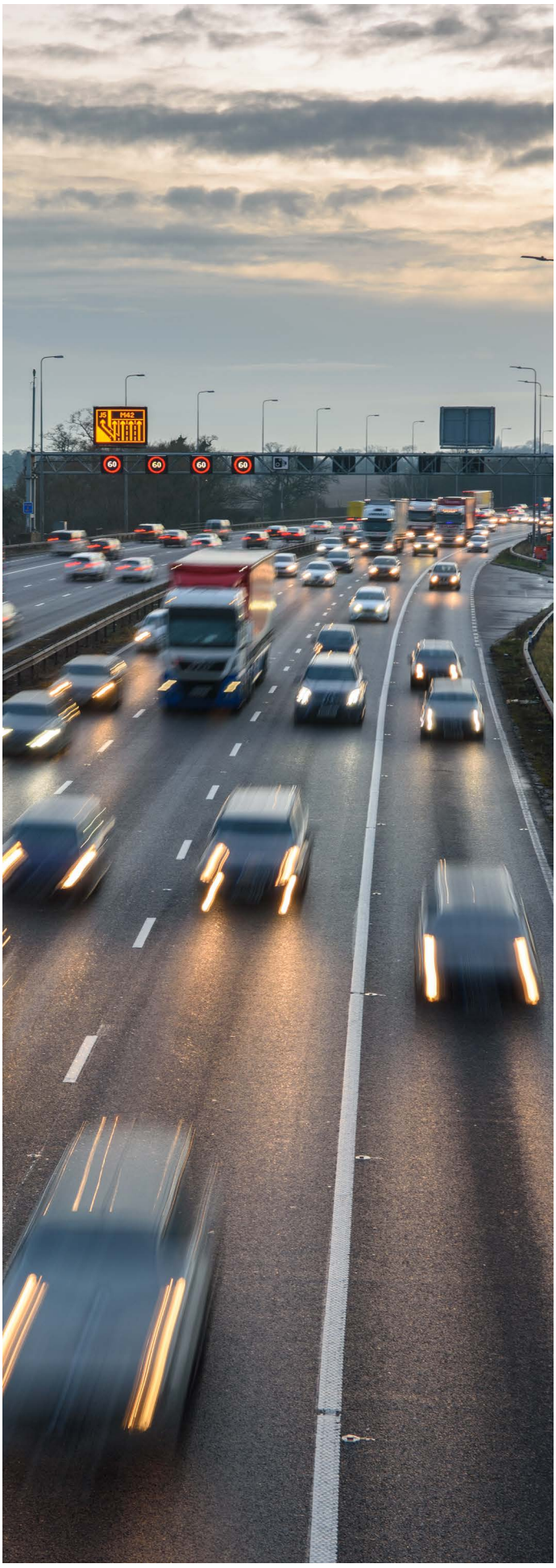
EXPERT REACTION TO THE SPRING STATEMENT

Andrew Loan, of fieldfisher, commented—'Brexit was a known headwind when Rishi Sunak became Chancellor of the Exchequer just two years ago, but I doubt in his wildest imaginings, he expected a pandemic, rampant inflation, war in Europe, and a cost of living crisis. What could he do at Spring Statement?

'Oil and gas companies will be relieved there are none of the feared windfall taxes, at least not yet. The much-trailed temporary 5p cut in fuel duty will help motorists and lorry drivers—the escalator going down for one year until March 2023, rather than being frozen in place as it has for more than a decade. But, despite that cut costing over £2bn, the Chancellor will take more tax on fuel next year, as a fifth of inflated fuel prices are automatically paid to the Treasury through 20% VAT. And on current plans the 5p will come back in 2023.

'Also much trailed was an increase in the lower NICs thresholds. A substantial jump of nearly £3,000 to align with the income tax personal allowance from April 2022 costs the Exchequer around £5bn per year. The unexpected rabbit out of the hat was a 1p cut in the basic rate of income tax from April 2024, jam tomorrow, perhaps just in time for the next general election. The 20% basic rate has been familiar since 2008, and the small cut will cost a further £5bn a year. That is £10bn of reduced taxes each year, mostly on earned income, mostly of the lower paid—one of the biggest tax cuts in recent years. From another point of view, it approximately matches and redistributes the revenue expected to be raised by the health and social care levy, which itself meets only a small fraction of the approximately £200bn public expenditure on health and social care in the UK. Also no sign of any substantial changes to other taxes, such as capital gains tax or inheritance tax. With inflation set to run at over 6% for some time, and higher on some items such as fuel and food, will these tax cuts be enough to support consumer confidence and stave off recession?



'Wise people turn to the Treasury's estimate of the impact of policy decisions to see which of the big announcements have little effect, and which quiet changes have a real impact. The Chancellor was silent about changes to the terms for repayment of student loans, which the Spring Statement 2022 document shows bringing in over £11bn in 2022–23, and billions more in subsequent years, albeit these are accruals for amounts expected to be paid over time rather than immediate cash receipts.

'It is some time since the government published and stuck to a tax roadmap, and we await details of the "Tax Plan" in the autumn. The document published today was more of a glossy brochure, presenting an attractive vision of a lower tax economy with a focus on "Capital, People, Ideas". For years Chancellors have cheerfully announced plans to boost growth and productivity without much impact. The proof of the pudding will be in the eating.'

Eloise Walker, of Pinsent Masons, said—'Although the Spring Statement was delivered with panache and a flourish—on a sliver platter with a dome on top—the substance of it is somewhat lacking: more of an amuse bouche than a meat course. This is not unexpected—no-one was seriously expecting anything meaty this March, and the candy-floss of spun sugar that were the new announcements were arguably directed as headline-grabbing political statements rather than substantial reforms: yes, the income tax cut (but not until 2024!) and a cut in fuel duty will please lower income households, and the increase in the NICs threshold to match income tax is a nice bit of garnish, but none of that is going to reinvigorate the British economy. For the main course, businesses will have to wait until the Autumn Budget, when we'll find out what the tax plan really means when it talks about business investment in training, R&D reform and incentivising capital investment. Until then, two nibblets to whet the appetite—the availability of offshore R&D reliefs may yet be preserved and (finally) an acknowledgement that our capital allowances regime is not up to scratch.'

John Fuszard, of Sagars Accountants, noted—'The main announcement in indirect taxes was the reduction in fuel duty by 5p per litre to 53p per litre with effect from 23 March 2022 for a period of 12 months. This was widely forecast. Fuel duty is an excise duty collected on the production of hydrocarbon oils in the refinery. It accounts for about one third of the price of fuel at the pump. The rate of annual increase had already frozen. The cut will reduce costs for business and private motorists while at the same time reduce the rate of inflation but is unlikely to please environmentalists. This tax raises around £30bn per year. In addition to fuel duty, VAT is charged on the pump price.

'VAT is also charged at the reduced rate of 5% on domestic energy. Much has been made of the fact that, now the UK is no longer a member of the EU, the government could reduce the rate further to zero if it chose to do so. No steps were taken in this direction.'

Sophie Rhind and Jackelyn West, of Macfarlanes, remarked—'It comes as no surprise that the Spring Statement 2022 is focussed on the cost of living crisis exacerbated by the war in Ukraine. As well as the anticipated fuel duty cut and raised

NICs threshold, the government has pledged to reduce the basic rate of income tax to 19% from April 2024. With these tax reductions, HMRC are sure to be more focussed than ever on minimising the tax gap and doing so by reference to higher profile targets who are less impacted by the cost of living.

'As part of that, it is evident from the Statement that a large element of this will be a continued investment in tackling fraud. In the Spending Review 2021, HMRC were provided with an additional £292m across three years to bear down on tax avoidance and evasion, and the Spring Statement includes £161m to be used over the next five years to fund matters including ensuring large and mid-sized businesses pay the tax they owe and to reduce fraud. This is forecast to be a very impressive investment, with the exchequer impact estimated to be more than £3bn over the next five years.

'HMRC are likely to be assisted in their quest to combat avoidance and fraud with the Economic Crime (Transparency and Enforcement) Act 2022 requiring greater transparency in the ownership of UK land and property.

'It will certainly be interesting to see what further measures are introduced in Budget 2022, and if there will be more of a focus on the uncertain area around the taxation of cryptoassets.'

John Endacott, of PKF Francis Clark, commented—'Two statements by Rishi Sunak in his Spring Statement on 23 March particularly caught my attention:

- "in the next financial year we are forecast to spend £83bn on debt interest, the highest on record and almost four times the amount we spent last year", and
- "by 2024, the Office for Budget Responsibility (OBR) currently expects inflation to be back under control, debt falling sustainably and the economy growing"

'The first of these is sobering bearing in mind the Bank of England base rate is 0.75% and the second, speaking as an accountant, is concerning.'

KEY BUSINESS TAX ANNOUNCEMENTS

The remainder of this News Analysis contains more details on the key announcements that will be of interest to lawyers specialising in business tax. We have used the following abbreviations:

- Spring Statement 2022 (web): the main Spring Statement document published by HM Treasury (pdf web version)
- TIIN: tax information and impact notes, also known as policy papers

CAPITAL ALLOWANCES

One of the planks of the Chancellor's tax plan is to increase capital investment by businesses. A relatively low level of business investment in the UK is cited as a 'key driver' of the UK's lower productivity compared with Germany and France. The government is therefore considering how best to reform the rules on capital allowances in order to increase business investment.

In response to the coronavirus pandemic, the government brought in a 130% super-deduction (50% for 'special rate' assets) having effect from 1 April 2021 until 31 March 2023. This has been an expensive measure and there is no suggestion in the Spring Statement that it will be extended beyond this date. The closest it gets to this is the 'full expensing' option listed below, but it is fairly clear that this is not something the government is keen to implement.

At this stage the government is not setting out specific proposals but has provided 'illustrations' of the types of changes it could make (noting that the best option may be some combination of these):

- increase the permanent level of the annual investment allowance (AIA), for example to £500,000—the AIA is currently £1m and is due to revert to £200,000 from 1 April 2023, the same date on which the 130% super-deduction comes to an end. The level of the AIA has changed many times since it was introduced in 2008 and while an increase is always welcome, the transitional issues associated with a change in the limit are complex, and a retention of the £1m limit would be even more welcome
- increase writing down allowances for main and special rate assets from their current levels of 18% and 6% to 20% and 8% respectively—in other words, returning to the rates that applied before April 2012
- introduce a first year allowance (FYA) for main and special rate assets where firms can deduct, for example, 40% and 13% in the first year, with the remaining expenditure written down at standard rates—100% plant and machinery FYAs are currently available (where the AIA or super-deduction are not available or not claimed) only for certain green technologies
- introduce an additional FYA, to bring the overall amount that can be claimed to greater than 100% of the initial cost—for instance an additional 20% allowance to be claimed in the first year on top of standard writing down allowances. The government acknowledges that this could lead to increased complexity
- introduce full expensing, allowing businesses to write off the costs of qualifying investment in one go—this would be the most costly option and for this reason the government does not appear to favour it
- make changes to the structures and buildings allowance or to enhanced capital allowances in freeport sites

Once the more radical of these suggestions have been discounted as too costly or too complex, what remains seems to consist largely of making further changes to limits and rates that have been changed on multiple previous occasions. As a central aspect of a 'tax plan' that the Chancellor introduced with some fanfare, it could be seen as a little anticlimactic. The government intends to 'engage with businesses and confirm plans' at the Autumn Budget, and as part of its deliberations will take account of the impact of the super-deduction. It is intended that 'key changes' will come into effect from April 2023. As we are at an early stage it is possible that some more fundamental changes could emerge from this review.

Eloise Walker, of Pinsent Masons, commented—'On capital expenditure allowances, after years of lobbying by various industry bodies, it's finally been admitted that '*An analysis of the Net Present Value of different countries' capital allowances suggests that despite the UK's highly competitive headline corporation tax rates, the overall tax treatment provided for capital investment is less generous than the OECD average*'. So, something must be done. It's just not quite clear yet what that is, so watch this space and cometh the Autumn hour, cometh the Chancellor....'

For more information on the range of capital allowances currently available to businesses, see: Capital allowances—overview and Practice Note: Plant and machinery allowances—types and rates.

See: Spring Statement 2022 (web) (paras 4.26–4.34).

R&D TAX RELIEF REFORM

Following a wide-ranging review of research and development (R&D) tax reliefs first launched at Spring Budget 2021 with the objective of ensuring the UK remains a competitive location for cutting edge research, at the Spring Statement the government:

- confirmed that relief will be extended to all cloud computing costs associated with R&D, including storage
- restated its commitment to refocusing the relief towards innovation in the UK, rather than overseas. However, recognising that there are some cases where it is necessary for R&D activities to take place overseas, the government announced that it will legislate so that expenditure on overseas R&D activities can still qualify for relief where the conditions required for the research are not present in the UK, or where regulatory or legal requirements mean that the activities must take place overseas, and
- announced that, in order to support the growing volume of R&D underpinned by mathematical advances, the definition of R&D for tax reliefs will be expanded to clarify that pure mathematics is a qualifying cost

These reform measures build on proposals that were announced at Autumn Budget 2021 and were set out in more detail at the Tax Administration and Maintenance Day in November. The required legislation will be published in draft this summer before being included in Finance Bill 2023 for these measures to come into effect in April 2023.

Eloise Walker, of Pinsent Masons, commented—'R&D intensive businesses, especially in the biopharma sector, will be heaving a sigh of relief that the territoriality restrictions on R&D (to come in in 2023) may not be as bad as first feared. The Chancellor has confirmed that expenditure on overseas R&D will still—in certain circumstances—qualify for relief, because exemptions will be introduced where overseas R&D is backed up by '*material factors such as geography, environment, population or other conditions that are not present in the UK*' or where regulatory/other legal requirements necessitate non-UK activity'.

Alongside the Spring Statement, the government also outlined further reforms that it is considering to ensure the R&D tax relief system is globally competitive, while properly incentivising innovation. Specifically:

- to ensure the effective targeting of the UK's R&D relief, the government announced that it will consider increasing the generosity of the R&D expenditure credit (RDEC) to boost R&D investment in the UK, stating that this will rebalance the R&D tax schemes and make RDEC more internationally competitive, and
- the government will consider what more can be done to tackle abuse of R&D tax reliefs, particularly in the SME scheme, ahead of Budget 2022 (having announced, in November 2021, a new HMRC team focused on tackling abuse of these reliefs)

The government is continuing its review of R&D tax reliefs and further announcements will be made in the autumn.

Sophie Rhind and Jackelyn West, of Macfarlanes LLP, noted—'Another area where concern over abuse has grown in recent years is R&D tax reliefs. This was highlighted in the Autumn Budget 2021, and in November a new cross-cutting HMRC team was created to specifically deal with the issue. New measures set to tackle the abuse will take effect from April 2023, and the Spring Statement notes that the government will consider what more can be done ahead of Budget 2022.'

For more on R&D tax relief generally, see: R&D reliefs—overview.

See: Spring Statement 2022 (web) (paras 3.14, 4.47–4.59).

Increasing National Insurance thresholds and reducing Class 2 NICs payments for low earners

For the employed, the Spring Statement announced an increase in the annual NICs primary threshold from the planned £9,880 to £12,570, aligning it with the income tax personal allowance, from July 2022 (being the earliest date that will allow all payroll software developers and employers to update their systems).

For the self-employed, the Spring Statement announced an equivalent increase in the annual NICs Lower Profits Limit to £12,570, (albeit in the form of a £11,908 threshold, being 13 weeks of £9,880 and 39 weeks of £12,570), again to ensure alignment with the income tax personal allowance, from April 2022. In addition, from April 2022, the self-employed with profits between the Small Profits Threshold and Lower Profits Limit will not pay any Class 2 NICs, but will continue to build up National Insurance credits (and therefore maintain eligibility to contributory benefits and build entitlement to the State Pension).

In order to enact these changes, draft legislation is to be introduced in the House of Commons on 24 March 2022, with a view to expediting the parliamentary progress of the Bill.

Jon Stevens, of DWF, commented 'While the increase of the NICs thresholds to align with the income tax personal allowance continues to narrow the tax base, could it make it easier to merge income tax and NICs in the future? The increase in the rate of NICs (to be replaced with the health and social care levy) and the reduction in the basic income tax rate from 2024 [see below] favours unearned income over earned income, something that already needs to be addressed in our current system'.

For more on NICs liabilities for the employed and the self-employed, see Practice Note: Employment status—why it matters—Rates and structure of NICs.

See: Spring Statement 2022 (web) (paras 2.11–2.12, 3.6–3.7 and 4.13–4.16), TIIN: National Insurance Primary Threshold and the Lower Profits Limit increase and associated Class 2 changes in 2022 to 2023 tax year, National Insurance Contributions (Increase of Thresholds) Bill and Spring Statement 2022: Personal Tax Factsheet.

Basic rate of income tax

The government announced it will cut the basic rate of income tax from 20% to 19% from April 2024, before the end of this Parliament. This is on the proviso that the government continues to meet its fiscal rules.

This reduced rate will apply to the basic rate of non-savings, non-dividend income for taxpayers in England, Wales and Northern Ireland, to the savings basic rate which applies to savings income for taxpayers across the UK, and to the default basic rate which applies to trustees and non-resident individuals. The change will be included in a future Finance Bill.

The reduction in the basic income tax rate for non-savings, non-dividend income will not apply to Scottish taxpayers because the power to set those rates is devolved to the Scottish government. However the Scottish government will receive additional funding under the Fiscal Framework, which may be used at their discretion to reduce taxes.

A three-year transition period for Gift Aid relief will apply, to maintain the income tax basic rate relief at 20% until April 2027.

For more on the rates of income tax, see Practice Note: Key UK tax rates, thresholds and allowances.

See: Spring Statement 2022 (web) (paras 3.9 and 4.64) and Spring Statement 2022: Personal Tax Factsheet.

Increasing the employment allowance

The Spring Statement announced an increase to the employment allowance from April 2022, meaning eligible employers will be able to reduce their employer NICs bills by up to £5,000 a year. This follows the April 2020 increase from £3,000 to £4,000.

The government estimates this increase will benefit around 495,000 businesses, including around 50,000 businesses which will be taken out of paying NICs and the health and social care levy entirely and in total means that, from April 2022, 670,000 businesses will not pay NICs and the health and social care levy due to the employment allowance.

For more on the employment allowance, see Practice Note: Employment status—why it matters.

See: Spring Statement 2022 (web) (paras 2.23 and 3.8), TIIN: Employment Allowance increases to £5,000 from April 2022 and Spring Statement 2022: Business Support Factsheet.

Apprenticeship levy reform

Following the introduction of the apprenticeship levy in 2017, the government has recognised that employers have frustrations with the way that levy funds can be spent within the apprenticeships system. The Spring Statement announced that the government is intending to deliver a suite of improvements to address these concerns, notably examining whether the current tax system, including the operation of the apprenticeship levy, is 'doing enough to incentivise businesses to invest in the right kinds of training'.

For more on the apprenticeship levy, see Practice Note: Apprenticeship levy.

See: Spring Statement 2022 (web) (paras 4.37-4.40).

EMI and CSOP reform

At Budget 2020, the government launched a review of the enterprise management incentive (EMI) scheme. The government confirmed at the Spring Statement that the review has concluded that the current EMI scheme remains effective and appropriately targeted. However, the Spring Statement also noted that the scope of the review will now be expanded to consider if the other discretionary tax-advantaged share scheme, the company share option plan (CSOP), should be reformed to support companies as they grow beyond the scope of EMI.

For more on the EMI and CSOP schemes, see Practice Note: Introduction to employee share ownership schemes.

See: Spring Statement 2022 (web) (para 4.60).