

Lexis[®]PSL Tax Analysis - Budget
2016

LexisPSL Tax

LexisPSL Tax provides a range of procedural and substantive guidance set out in topics which reflect your thought process. Practice Notes set out key principles, supported by the underlying authority, with examples of how these principles apply in practice. Related documents are highlighted to enable quick progression to other documents and further reading links take you through to relevant material in LexisLibrary.

LexisPSL Tax covers all of the key taxes and transactional topics, including:

- Corporate transactions
- Finance
- Real estate tax
- Anti-avoidance, and
- Taxes management and litigation

The LexisPSL Tax team:

[Abigail McGregor](#), Solicitor

[Aredhel Johnson](#), Solicitor

[Emma Channon](#), Solicitor

[Rachel Gauke](#), Solicitor

[Robbie Watson](#), Paralegal

[Robert O'Hare](#), Solicitor

[Sabina Margulies](#), Solicitor

[Sunaina Srani-Chohan](#), Solicitor

This analysis originally appeared on LexisPSL Tax.

Note that links to Practice Notes will require access to LexisPSL Tax.

Contents

KEY BUSINESS TAX ANNOUNCEMENTS	3
BACKGROUND	3
BUSINESS AND ENTERPRISE	4
Corporation tax rates and payments	4
Corporation tax: reform of loss relief	4
Royalty withholding tax	4
CGT entrepreneurs' relief—extension to external investors	4
CGT entrepreneurs' relief—reversing 2015 changes	4
Transfer pricing	5
Trading or property income in non-monetary form	5
R&D tax credits: Vaccine research relief	5
Venture capital schemes	5
Apprenticeship levy	5
Future developments	5
Measures pre-announced	6
FINANCE	6
Tax deductibility of corporate interest expenses	6
Addressing hybrid mismatches	7
Automatic deduction of savings income tax	7
Update to bank loss relief restriction	7
Securitisation and annual payments	7
Future developments	7
Measures pre-announced	7
EMPLOYMENT TAXES AND SHARE INCENTIVES	8
Disguised remuneration schemes	8
Taxation of termination payments	8
Off-payroll working in the public sector	8
Employee shareholder status	9
Employee share schemes: simplification of the rules	9
Travel and subsistence expenses rules	9
Future developments	9
Measures pre-announced	9
REAL ESTATE TAXES	10
SDLT: non-residential rates	10
Profits from trading in and developing UK land	10
SDLT: higher rates on purchases of additional residential properties	10
Measures pre-announced	11
PERSONAL TAXES	11
CGT rates	11
Increased income tax allowances and thresholds	11
New tax free allowances for micro-entrepreneurs	11
NICs for self-employed	11
Loans to participators	11
ISAs	12
Measures pre-announced	12
VAT	12
Tackling online fraud in goods	12
VAT registration and de-registration thresholds	12
TAX AVOIDANCE AND EVASION	12
UK activity in response to the BEPS actions	12
Future developments	12
Measures pre-announced	12
ENERGY AND ENVIRONMENT	13
Oil and gas	13
Environment	13

Budget 2016—Lexis® PSL Tax analysis

A summary of the key business tax announcements made in the Chancellor's Budget on 16 March 2016.

KEY BUSINESS TAX ANNOUNCEMENTS

Key announcements that were new for [Budget 2016](#) include:

- corporation tax: [reduction of corporation tax rates to 17% in 2020](#)
- corporation tax: [reform of loss relief](#)
- royalties: [overhaul of the royalty withholding tax regime](#)
- entrepreneurs' relief: [extension to external investors](#)
- termination payments: [application of employers' NICs to termination payments](#)
- SDLT: [reform of non-residential rates onto slice system](#)
- offshore property developers: [ensuring taxation of profits from trading in and developing UK land](#)
- CGT: [reduction in rates to 10% and 20% from April 2016](#)

New measures that come into effect in the immediate future:

- [trading or property income in non-monetary form](#) (16 March 2016)
- [restriction on royalty treaty benefits](#) (17 March 2016)
- [DITMOs exercised on or after 23 March 2016](#)
- [closing down disguised remuneration schemes](#) (16 March 2016)
- [SDLT: non-residential rates](#) (17 March 2016)

Surprisingly, no further announcements were made on:

- the bank levy
- the UK's response to the EU Anti-tax avoidance directive proposals
- developments on the reform of the penalties regime, or
- increasing the flexibility for replacement capital within venture capital schemes

For the key Private Client announcements, see: [Budget 2016—Lexis®PSL Private Client analysis](#).

BACKGROUND

The Chancellor of the Exchequer, George Osborne, delivered his second all-Conservative [Budget](#) (Budget 2016) on Wednesday 16 March 2016.

In the context of a worsening global financial outlook and reduction in productivity growth, the Chancellor focused

on stability and producing 'long term solutions for long term problems'. Key announcements were made relating to our education system, including making all schools academies and considering teaching maths to all pupils up to age 18, and infrastructure projects such as HS3 and Crossrail 2 to 'keep Britain moving'.

From a tax perspective there was the, now customary, focus on tackling avoidance and evasion. This includes a new target to raise £12bn over the course of the parliament, however it is interesting to note that this target includes 'tackling imbalances' in the system which would seem to include some of the less avoidance driven changes.

There were, as usual:

- some winners, including:
 - » higher rate tax payers - or at least the thousands who will cease to be higher rate income tax payers as a result of increases in thresholds
 - » the oil and gas industry, and
 - » small businesses - who took most of the benefits of the much anticipated business rates reform
- some losers:
 - » large property owners, who will not get their hoped for carve-out from the higher rate SDLT charge on additional residential properties
 - » manufacturers (and consumers) of sugary drinks, and
 - » private equity managers (again) who do not benefit from the reduction in capital gains tax rates, and
- those for whom the result is a bit of a mixed bag, particularly large corporates, for whom clearly the additional reduction in the main corporation tax rate will be welcome albeit they have to wait for 2020 for that, whereas the more negative changes such as restrictions on interest deductions and loss reliefs come in sooner

The Overview of Tax Legislation and Rates ([OOTLAR 2016](#)) contains useful tables in Annex B showing all the tax rates.

Finance Bill 2016 (FB 2016) is expected to be published on 24 March 2016.

BUSINESS AND ENTERPRISE

Corporation tax rates and payments

Legislation will be introduced in FB 2016 to reduce the main rate of corporation tax to 17% for financial year 2020 (down from the previously announced 18%). It will follow the reduction to 19% for the financial years 2017 to 2019.

The government will also delay the introduction of the new corporation tax payment rules for large companies, previously announced at Summer Budget 2015, by two years, so that they will apply to accounting periods starting on or after 1 April 2019. The new rules will bring forward the instalment payment dates for companies with annual taxable profits in excess of £20m (divided between group members). The government intends to introduce legislation containing the new rules later this year.

The government has announced that it will commission the OTS to review the options to simplify the computation of corporation tax and will publish the terms of reference for the review shortly.

See: [Budget 2016](#) (paras 1.158, 1.159, 1.189, 2.83, 2.84, 2.215), [TIIN: Corporation Tax to 17% in 2020](#), and [Business tax roadmap](#) (paras 2.78-2.79)

Corporation tax: reform of loss relief

The government announced that it will reform the loss relief rules on when corporate losses can be carried forward. Following a consultation, legislation will be included in FB 2017 that will:

- provide more flexibility on how losses can be used—businesses will be able to use carried forward losses arising on or after 1 April 2017 against profits from other types of income and from other companies in the group, and
- restrict the amount of losses than can be carried forward—from 1 April 2017, businesses will only be able to use carried forward losses against up to 50% of their (or their group's) profits above £5m

These changes will not apply to the North Sea ring-fenced corporation tax regime or to banks that are subject to the separate bank losses restriction.

See: [Budget 2016](#) (paras 1.174–1.177, 2.102) and [OOTLAR 2016](#) (para 2.29)

Royalty withholding tax

FB 2016 will include legislation to:

- with effect for payments made on or after 17 March 2016, deny the benefit of a double tax treaty (DTT) as it applies to royalty payments between connected parties where arrangements have a main purpose of securing a benefit that is contrary to the purpose of the DTT—this is aimed at conduit arrangements such as where the ultimate beneficial owner is resident in a jurisdiction with which the UK has a DTT, but the owner pays the royalty on to an affiliate in another jurisdiction
- with effect for payments made on or after Royal Assent to FB 2016:
 - » widen the types of royalties in respect of which a payer must withhold UK income tax by aligning the withholding requirement to the same class of royalties that are

subject to an underlying charge to UK income tax—this will encompass payments for rights to use trade names and trademarks (currently, such payments are only subject to withholding tax if they constitute 'annual payments'), and

- » provide that a royalty has a UK source for the purposes of the royalty withholding rules if the royalty is connected with a UK PE or an avoided PE even if the payment is not made from the UK—the application of this rule to an avoided PE will require amendments to the diverted profits rules (DPT) to include within the calculation of the notional profits of an avoided PE an amount equal to the royalties that would have had a UK source under the royalty withholding tax legislation had the avoided PE been an actual PE

See: [Budget 2016](#) (paras 1.211, 2.96), [OOTLAR 2016](#) (para 1.30), [TIIN, draft legislation, explanatory note and technical note: Income Tax: royalty withholding tax](#), [Business tax roadmap](#) (para 2.40)

CGT entrepreneurs' relief—extension to external investors

FB 2016 will extend entrepreneurs' relief through the introduction of a new 'investors' relief' for subscriptions of new shares in unlisted companies.

Entrepreneurs' relief will be available for disposals of ordinary shares in unlisted trading companies held by individuals, where the shares were newly issued to the disposing taxpayer. The relief will apply to shares that are acquired on or after 17 March 2016, and are held for a period of at least three years starting from 6 April 2016.

The extension of entrepreneurs' relief to external investors is intended to provide a financial incentive for individuals to invest in unlisted trading companies over the long term.

See: [Budget 2016](#) (para 2.188) and [TIIN: Capital Gains Tax: Entrepreneurs' relief: extension to long-term investors](#)

CGT entrepreneurs' relief—reversing 2015 changes

FA 2015 introduced a number of restrictions to the availability of entrepreneurs' relief. These were widely criticised for unfairly penalising taxpayers who were not the intended targets of the measures. The government has responded to these concerns with provisions in FB 2016 that will, in some cases, restore the pre-FA 2015 position. The amendments are backdated to the date on which the relevant FA 2015 measure came into effect (18 March 2015 or 3 December 2014).

The changes are as follows:

- **Associated disposals:** entrepreneurs' relief will be available on an 'associated disposal' of a privately-held asset when the accompanying disposal of business assets is to a family member. The FA 2015 changes were interfering with normal arrangements for passing on a family business to a younger generation, and FB 2016 is intended to alleviate this. In addition, the requirement that the disposal must be of a minimum 5% stake in the company or partnership does not apply where the taxpayer disposes of their whole interest and they previously held a larger stake. See: [Budget 2016](#) (para 2.189) and [TIIN: Capital Gains Tax: changes to rules to extend availability of Entrepreneurs' Relief on associated disposals](#)

- **Goodwill on incorporation:** entrepreneurs' relief will be available, subject to conditions, on disposals of business goodwill where the business is transferred to a close company in which the disposing taxpayer is or becomes a participator. FA 2015 had the effect of denying relief for a transfer of goodwill to a company in which the taxpayer held any shares at all; FB 2016 will amend this to allow relief provided that the taxpayer has no more than a 5% stake in the acquiring company. See: [Budget 2016](#) (para 2.190) and [TIIN: Capital Gains Tax: changes to rules to extend availability of Entrepreneurs' Relief on goodwill on incorporation](#)
- **Joint ventures and partnerships:** this change affects the entrepreneurs' relief definitions of a trading company and trading group. Prior to FA 2015, a company holding shares in a joint venture company was treated as carrying on a proportion of the activities of the joint venture company for the purposes of the trading test. FA 2015 removed this provision; FB 2016 will restore it, but only where the disposing taxpayer has a minimum 5% stake (directly or indirectly) in the joint venture company. Similarly, prior to FA 2015, a company that was a member of a partnership was treated as carrying on a proportion of the partnership's activities for the purposes of the trading test. FA 2015 treated all activities carried on by a company as a member of a partnership as non-trading activities; FB 2016 will restore the pre-FA 2015 position, but again only where the disposing taxpayer has a minimum 5% stake (directly or indirectly) in both the company and the underlying partnership. See: [Budget 2016](#) (para 2.191) and [TIIN: Capital Gains Tax: Entrepreneurs' Relief - changes to the treatment of joint ventures and partnerships](#)

For background information on the current rules, including the effects of FA 2015, see Practice Note: [Entrepreneurs' relief](#)

Transfer pricing

Legislation will be introduced in FB 2016 to amend the current definition of "transfer pricing guidelines" to incorporate the revisions agreed to the OECD Transfer Pricing Guidelines as part of the OECD BEPS project. The government will also be consulting on whether to introduce secondary adjustment rules into the UK legislation.

See: [Budget 2016](#) (paras 2.100, 2.101), [OOTLAR 2016](#) (para 1.45) and [TIIN: Income and Corporation Tax: updating the transfer pricing guidelines](#)

Trading or property income in non-monetary form

Legislation has been published to ensure that trading or property income that is received in non-monetary form is fully taxable on an amount equal to the value of whatever is received. According to HMRC, this does not change the current law, but the position has been challenged so it is being put beyond doubt.

The legislation will be in FB 2016 and comes into effect immediately (applying to trading and property business transactions occurring on or after 16 March 2016).

See: [Budget 2016](#) (para 2.106), [OOTLAR 2016](#) (para 1.44) and [TIIN, draft legislation and explanatory note: Income and corporation tax: trading income received in non-monetary form](#)

R&D tax credits: Vaccine research relief

The government announced that it will include legislation in FB 2016 to end Vaccine Research Relief in respect of expenditure incurred on or after 1 April 2017 (see Practice Note: [Vaccine research relief](#)). This is because only a handful of large companies claim the relief and state aid approval runs out on 31 March 2017.

See: [Budget 2016](#) (para 2.85), [OOTLAR 2016](#) (para 1.32) and [TIIN: Vaccine research relief: expiry in 2017](#)

Venture capital schemes

Following the wholesale changes to the EIS and VCT regimes in F(No 2)A 2015 technical clarification will be made in FB 2016 to ensure the earlier changes work as intended. There are two proposed changes:

- with effect from 18 November 2015 (when the previous changes were introduced, but with the option to apply the old rules for investments received up to 5 April 2016), amendments will be made to ensure that the most recently filed accounts of a company are generally used to determine the end date of:
 - » the 5 year period (for calculating the average turnover for the purposes of condition B of the permitted maximum age requirement (see Practice Note: [EIS—Conditions relating to the arrangements in general](#)), and
 - » the 3 year period for the operating profit condition for knowledge intensive companies (see Practice Note: [EIS—Meaning of Knowledge Intensive Company](#))

The description of this change sounds remarkably similar to the wording in the legislation already, but there is presumably a point to the changes, so we will have to await the draft legislation, and

- with effect from 6 April 2016 a new condition will be included in the list of conditions that a VCT must meet in order to obtain HMRC approval that specifies the investments that a VCT can make for liquidity management purposes, ie AIF or UCITS units that can be redeemed or repurchased on seven days notice or shares or securities acquired on a regulated market

The government also confirmed its 2015 plan to exclude all remaining energy generation activities from being qualifying trades for the purposes of EIS, SEIS, VCT and SITR.

See [Budget 2016](#) (paras 2.46, 2.47), [OOTLAR 2016](#) (para 1.24), Draft FB 2016, [clause 6](#) and [TIIN: Enterprise Investment Scheme and Venture Capital Trusts](#)

Apprenticeship levy

The government has announced that it will apply a 10% top-up to monthly funds entering apprenticeship levy payers' digital accounts in England when the levy is introduced in April 2017 (see News Analysis: [Getting ready for the Apprenticeship Levy for more on the levy](#)). This top-up will be available for those employers to spend on apprenticeship training.

The legislation implementing the levy will be contained in FB 2016; minor amendments have been made to the previously published draft legislation.

See: [Budget 2016](#) (paras 1.99, 2.243) and [OOTLAR 2016](#) (para 1.56)

Future developments

- **Substantial shareholding exemption (SSE):** the government will consult later in 2016 on a possible modernisation of the SSE. The consultation will cover the extent to which the SSE is still meeting its original policy objective and whether it could be changed to increase its 'simplicity, coherence and international competitiveness'. See: [Budget 2016](#) (para 2.120), [OOTLAR 2016](#) (para 2.31) and [Business tax road map](#)
- **Partnerships:** the government will publish a consultation on partnership tax, covering a number of areas where the current rules are uncertain, including an issue highlighted by the OTS. See: [Budget 2016](#) (para 2.109) and [OOTLAR 2016](#) (para 2.13)
- **Capital gains tax entrepreneurs' relief:** the government will review the definition of a trading company to ensure it operates effectively (no time scale is given for this review). See: [Budget 2016](#) (para 2.192)
- **Authorised Contractual Schemes:** the government has announced its intention to consult during 2016 on measures affecting Authorised Contractual Schemes (CoACs). The proposed amendments will include measures to streamline the tax rules for investors and simplify reporting requirements. Any necessary legislation will be introduced in a FB 2017 or secondary legislation as appropriate. See: [Budget 2016](#) (para 2.105) and [OOTLAR 2016](#) (para 1.89)

Measures pre-announced

- **Asset managers' performance linked rewards:** following the publication of draft clauses on 9 December 2015, legislation will be included in FB 2016 determining when asset managers can pay capital gains tax rather than income tax on carried interest received from a fund. The rules ensure that carried interest will be subject to income tax unless the fund undertakes long term investment activity (with investment horizons longer than three years). Some changes to the draft legislation have been highlighted, including that capital gains tax treatment will apply where the average hold period is 40 months or more (rather than 48 months as specified in the draft legislation). Additional bespoke calculation rules will also be introduced for additional asset classes, including venture capital and real estate, alongside a number of other minor technical changes. The rules will apply to relevant sums arising on or after 6 April 2016. See: [Budget 2016](#) (paras 1.225, 2.104) and [OOTLAR 2016](#) (para 1.26)
- **Company distributions:** as announced in AS 2015, the government will introduce rules in FB 2016 to prevent the conversion of income into capital using company distributions. The new legislation will amend the transactions in securities rules and introduce a new TAAR. See: [Budget 2016](#) (para 2.107) and [OOTLAR 2016](#) (para 1.25)
- **Capital allowances and leasing:** FB 2016 will include two anti-avoidance measures that were announced in AS 2015 and that came into effect on 25 November 2015. The first measure broadens the existing anti-avoidance rule in CAA 2001, s 215, so that it applies to the seller's disposal value as well as the buyer's qualifying expenditure. The second measure makes any payment for taking over another person's tax deductible payment obligations under a lease subject to tax as income. Draft legislation was published with AS 2015. See: [Budget 2016](#)

(para 2.107)

- **Patent box:** legislation will be included in FB 2016 to modify the patent box computation rules so that they comply with the new international framework set out by the OECD. In particular it will remove the 'proportional profit split' option so that 'streaming' applies in all cases at the level of an IP asset, a product or a product family. Draft legislation was first published on 9 December 2015. See: [Budget 2016](#) (para 2.99), [OOTLAR 2016](#) (para 1.31) and [TIIN, draft legislation and explanatory notes: Corporation Tax: Patent Box - compliance with new international rules](#)
- **Related party rules—partnerships and transfers of intangible assets:** as announced at AS 2015, the intangible fixed asset rules will be amended to clarify the tax treatment on transfers of assets to partnerships. This measure is effective from 25 November 2015. See: [Budget 2016](#) (para 2.118) and [TIIN, draft legislation and explanatory notes: Corporation Tax: related party rules, partnerships and transfers of intangible assets](#)

FINANCE

Tax deductibility of corporate interest expenses

As widely expected, following HM Treasury consultation (published in October 2015), the government has confirmed that it will introduce new measures to restrict the tax deductibility of interest expenses for large multinational enterprises.

The aim of the new measures is to address arrangements that shift profits out of the UK, and erode the UK tax base, by aligning the level of allowable UK deductions with the level of borrowing a corporate needs to fund its activities in the UK—ie align the relief (and so taxable profits) with the economic activity.

Subject to a de minimis group threshold of £2m (net of UK interest expense), the measures will include:

- a Fixed Ratio Rule limiting corporation tax deductions for net interest expense to 30% of a group's UK EBITDA, and
- a group ratio rule based on the net interest to EBITDA ratio for the worldwide group (on the basis that some multinational groups may have high external gearing for genuine commercial purposes)

As anticipated, the world-wide debt cap legislation will, as a result of these measures, become obsolete and will be repealed although the new restrictions will, reflecting one of the purposes of the world-wide debt cap, incorporate measures to ensure a group's net UK interest deductions cannot exceed the global net third party expense of the group.

Further consultation is expected during 2016 on the detailed provisions and to ensure the new restrictions do not inadvertently adversely impact commercial financing transactions (including, in particular, for public benefit infrastructure and the oil and gas ring-fence) or lead to unintended volatility. Refinements are also possible in the way the new rules will impact the banking and insurance sectors.

The new UK rules are consistent with the recommendations of the OECD in its 2015 Final Report on Action 4 of the OECD/G20 BEPS Project.

The new measures are expected to be included in FB 2017 and will take effect from 1 April 2017. The government anticipate the new rules will raise in excess of £3.9bn by the end of 2020/21.

See: [Budget 2016](#) (paras 1.209–1.210, 2.136, 2.97), [OOTLAR 2016](#) (para 1.28), [Business tax road map](#) (paras 2.30–2.37), [HM Treasury: Consultation: Tax deductibility of corporate interest expense \(October 2015\)](#) and [OECD/G20: Limiting Base Erosion Involving Interest Deductions and Other Financial Payments, Action 4 - 2015 Final Report \(October 2015\)](#)

Addressing hybrid mismatches

As previously announced at AS 2015 (see: [Lexis®PSL Tax analysis – Rules for addressing hybrid mismatch arrangements](#)), following HM Treasury consultation (originally published in December 2014), the government has confirmed that FB 2016 will include legislation to combat abusive hybrid mismatch arrangements (broadly those involving hybrid entities or hybrid financial instruments), within a multinational group, that result in either:

- double deductions for the same expense, or
- deductions for an expense without any corresponding receipt being taxable

Draft legislation and explanatory notes, along with a series of examples illustrating the application of the proposed new rules, were published in December 2015 (see: [HMRC: Corporation Tax—anti-hybrid rules](#)).

The new UK rules are consistent with the recommendations of the OECD in its 2015 Final Report on Action 2 of the OECD/G20 BEPS Project and address mismatches in two ways:

- a ‘primary response’—which will, broadly, deny a UK deduction, and
- a ‘secondary response’—which will, broadly, bring an amount into charge in the UK

In a new development, the government has announced that the new measures will be extended to neutralise the tax effect of hybrid mismatch arrangements involving PEs. This is on the basis that PEs are often used as an alternative to hybrid entities in tax planning arrangements and so provide for similar mismatch planning opportunities.

As a result of the introduction of these new measures, the existing anti-arbitrage legislation in Part 6 of the Taxation (International and Other Provisions) Act 2010 (TIOPA 2010) will be repealed.

The new provisions will be included in FB 2016 and will take effect from 1 January 2017. The extended scope of the hybrid mismatch rules is anticipated to raise approximately £950m by the end 2020/21.

See: [Budget 2016](#) (paras 1.212, 2.98), [OOTLAR 2016](#) (para 1.29), [TIIN: Corporation Tax—anti-hybrids rules, Tackling aggressive tax planning: implementing the agreed G20-OECD approach for addressing hybrid mismatch arrangements \(December 2014\)](#), [Business tax road map](#) (paras 2.38–2.37), and [OECD/G20: Neutralising the Effects of Hybrid Mismatch Arrangements, Action 2 - 2015 Final Report \(October 2015\)](#)

Automatic deduction of savings income tax

The government has announced that the rules requiring tax at the basic rate of income tax to be deducted at source from payment

of interest will be amended to provide an exemption for payments:

- from certain authorised investment funds (ie OEICs and AUTs)
- from investment trust companies, and
- in respect of peer-to-peer loans

This simplification measure will allow such payments to be paid gross (ie without deduction of income tax) and, following the introduction of the Personal Savings Allowance, will bring the tax treatment of income from these types of savings into line with the treatment of interest paid on bank and building society accounts.

The new measures are expected to be included in FB 2017 to take effect from 6 April 2017.

See: [Budget 2016](#) (para 2.56) and [OOTLAR 2016](#) (para 2.11)

Update to bank loss relief restriction

FB 2016 will, with effect from 1 April 2016, reduce from 50% to 25% the proportion of a banking company’s annual taxable profit that can be offset by pre-April 2015 carried-forward losses.

FB 2016 will also amend the excluded entities test to ensure that the bank related taxes (bank loss restriction legislation, bank compensation payments, surcharge legislation and the Code of Practice on taxation for banks) only apply to banks. This amendment will be backdated to apply with effect from when the relevant bank related tax took effect.

See: [Budget 2016](#) (paras 2.111, 2.112), [OOTLAR 2016](#) (paras 1.36, 1.35), [TIIN: Corporation Tax: update to bank loss relief restriction](#), [TIIN: Banking companies: excluded entities](#)

Securitisation and annual payments

FB 2016 will include legislation to enable regulations to be amended to clarify that residual payments made by a securitisation company will not be treated as annual payments so they can be paid without deduction of UK income tax. Currently, the tax treatment of residual payments is uncertain, requiring companies to write to HMRC to obtain confirmation that they do not constitute annual payments before making payments gross.

See: [Budget 2016](#) (para 2.110), [OOTLAR 2016](#) (para 1.41), [TIIN: Corporation Tax: securitisation and annual payments](#)

Future developments

- **Double taxation treaty passport scheme:** the government has announced its intention to consult during 2016 to ensure the double taxation treaty passport scheme (DTTP) still meets the needs of UK borrowers and foreign investors. As part of the review, and in accordance with the 2013 [UK investment management strategy](#), the government will consider extending the scheme to other types of foreign investor, including sovereign wealth funds, pension funds and partnerships to encourage them to establish more of their investment activity in the UK. See: [Business tax road map](#) (paras 2.66–2.68)

Measures pre-announced

- **Loan relationships—taxation of corporate debt and derivative contracts:** the government has confirmed FB 2016 will include measures to complete the updated tax regime for company debt and derivative contracts (in order to ensure they interact correctly with new accounting standards). The three measures amend the debt and derivatives, regime specific,

transfer pricing rules to:

- » restrict deductions for notional finance costs arising on interest-free loans and other loans on non-market terms
- » ensure that credits arising on the reversal of debits (previously denied) are not taxed, and
- » limit the amount excluded from tax in cases where the loan (or derivative) is part of a hedging relationship intended to mitigate foreign currency risk

The changes will have effect from 1 April 2016. See: [Budget 2016](#) (para 2.119) and [TIIN: Corporation Tax: update of the taxation of corporate debt and derivative contracts \(9 December 2015\)](#)

- **Stamp taxes and DITMOs:** as announced at AS 2015 (see Practice Note: [Higher rate SDRT and stamp duty charges – Exercise of securities options](#)), shares transferred to a clearance service or a depositary receipt issuer as a result of the exercise of an option will be charged the 1.5% higher rate of stamp duty or SDRT based on the higher of the market value or the exercise price (ie strike price). While the measure has been previously announced, the date on which it takes effect has been slightly delayed. It will apply to any exercise on or after 23 March 2016 (the earlier draft legislation had referred to the date of Budget 2016), provided that the option was entered into on or after 25 November 2015. See: [Budget 2016](#) (para 2.117), [OOTLAR 2016](#) (para 1.62), [TIIN, draft legislation and explanatory notes: Stamp Duty and Stamp Duty Reserve Tax: deep in the money options \(DITMOs\)](#)
- **Bad debt relief for peer-to-peer (P2P) industry:** as announced at AS 2014, FB 2016 will include tax relief on bad debts incurred on or after 6 April 2016 on P2P loans against other P2P income (see News Analysis: [Draft Finance Bill 2016 – bad debt relief for peer-to-peer lending](#)). See: [Budget 2016](#) (para 2.31)

EMPLOYMENT TAXES AND SHARE INCENTIVES

Disguised remuneration schemes

A package of changes will be introduced to tackle the use of disguised remuneration (DR) avoidance schemes, with legislation in FB 2016 and further legislation following a technical consultation over the summer.

With effect from 16 March 2016, an additional targeted anti-avoidance rule will prevent the relief under ITEPA 2003, s 554Z8 (which reduces the amount subject to tax when certain conditions are met) from being available where there is a connection with a tax avoidance arrangement.

There will also be a withdrawal of the transitional relief on investment returns (under which the amount treated as earnings, and any investment returns accruing on that amount, are not taxed under ITEPA 2003, Part 7A when distributed to the employee by the third party). The relief will not apply if the original earnings charge on the DR has not been paid on or before 30 November 2016.

There will also be a new tax charge on all DR loans which have not been taxed and are still outstanding on 5 April 2019.

There are to be additional technical amendments in order to prevent double taxation in certain circumstances, to address the interaction with the Accelerated Payment rules, and to allow, where appropriate, for the tax and NICs to be collected from the employee where it cannot reasonably be collected from the employer. These issues will form part of the wider consultation over the summer.

The government also intends to tackle similar avoidance schemes that have the same objective of avoiding tax and NICs on earned income, or disguising remuneration, that do not currently fall within ITEPA 2003, Part 7A, such as those which do not involve a third party or claim not to involve an employee.

See: [Budget 2016](#) (para 2.49), [OOTLAR 2016](#) (para 1.12) and [TIIN: Tackling disguised remuneration avoidance schemes overview of changes and technical note](#)

Taxation of termination payments

Following the [consultation](#) on the simplification of the tax and NICs treatment of termination payments (see Practice Note: [Termination payments and tax](#)), the government has announced that it will introduce legislation to 'clarify and tighten' the rules on the taxation of termination payments.

Legislation will be introduced to clarify that all payments in lieu of notice (PILONs) are taxable as earnings, thereby abolishing the current tax distinction between contractual and non-contractual PILONs. The legislation will also confirm that certain damages payments will be taxable. In addition, the foreign service relief (see Practice Note: [Foreign service exemption for termination payments](#)) will be removed. From April 2018, the rules will be aligned so employer NICs will be due on any termination payments above £30,000.

A technical consultation will be published over the summer, with the changes legislated in FB 2017 and a future NICs bill to take effect from April 2018.

See: [Budget 2016](#) (paras 1.145–1.146, 2.26) and [OOTLAR 2016](#) (para 2.10)

Off-payroll working in the public sector

From April 2017, where a public sector body engages a worker through a personal service company, that body (or the recruiting agency, if used by the body) will be responsible for determining whether IR35 applies and, if IR35 does apply, for collecting the relevant tax and NICs (see Practice Note: [The intermediaries legislation – IR35](#) for detail on IR35). The government will consult on a simpler set of tests and online tools that 'will provide a clear answer' as to whether IR35 applies before the summer.

The application of IR35 to private sector engagements is unaffected. However, businesses and agencies working outside of the public sector will be able to make use of the new online tools.

Legislation will be introduced in FB 2017, and follows [HMRC's discussion document](#) on IR35.

See: [Budget 2016](#) (paras 1.148–1.150, 2.40), [OOTLAR 2016](#) (para 2.9) and [Technical note: Off-payroll working in the public sector:](#)

reforming the intermediaries legislation

Employee Shareholder Status

There will be a lifetime limit of £100,000 CGT exempt gains for Employee Shareholder Status (ESS) shares issued under ESS agreements entered into from 17 March 2016. This limit will not apply to any past or future gains relating to ESS agreements made on or before 16 March 2016.

See: [Budget 2016](#) (para 2.193) and [OOTLAR 2016](#) (para 1.52)

Employee share schemes: simplification of the rules

FB 2016 will repeal TCGA 1992, Sch 7D, Pt 4 as it no longer fulfils its original purpose since business asset taper relief ended in 2008. This will have the effect that a rights issue which takes place on or after 6 April 2016 in respect of shares received on exercise of an enterprise management incentives option will be treated in the same way for share identification purposes as other rights issues. As announced in the AS 2015, FB 2016 will also make a number of technical changes to simplify the tax-advantaged and non-tax-advantaged employee share scheme rules. These were originally published on 9 December 2015 and will appear in FB 2016 unamended. For details of these changes, see: [Lexis®PSL Share Incentives weekly highlights—10 December 2015](#)

See: [Budget 2016](#) (para 2.48) and [OOTLAR 2016](#) (para 1.10)

Travel and subsistence expenses rules

The government has announced that, following an [OTS review](#) and a subsequent [discussion paper](#), it will not be consulting further on the travel and subsistence rules. As a result, the rules will remain as they are.

The responses to the discussion paper (a summary of which will be published shortly) made clear that, although complex in parts, the current rules are generally well understood and work effectively for the majority of employees.

See: [Budget 2016](#) (para 2.38) and [OOTLAR 2016](#) (para 2.5)

Future developments

- **Salary sacrifice:** the government will consider limiting the range of benefits that attract income tax and NICs advantages when provided as part of a salary sacrifice scheme (see Practice Note: [Salary sacrifice—basic principles](#)). However, the government's intention is that pension saving, childcare and health-related benefits (such as Cycle to Work) will not fall within any limitations, and will therefore continue to benefit from income tax and NICs relief when provided through salary sacrifice arrangements. This development follows the government's previously announced (at Summer Budget 2015 and AS 2015) concerns as to the increased use of salary sacrifice schemes. See: [Budget 2016](#) (paras 1.147, 2.35) and [OOTLAR 2016](#) (para 2.4)
- **Simplification of the administration of tax on employee benefits and expenses:** the government will introduce a package of measures to simplify various aspects of the administration of the tax on employee benefits and expenses (see: [Budget 2016](#), para 2.36), namely:
 - » extending the voluntary payrolling framework (which commences on 6 April 2016) to allow employers to account for tax on non-cash vouchers and credit tokens in real

time from April 2017. These benefits, along with living accommodation and beneficial loans, were excluded from the initial framework. The legislation will be included in FB 2016. See: [OOTLAR 2016](#) (para 1.9) and [TIIN: Extending the real time collection of tax on benefits in kind: voluntary payrolling](#)

- » the government will hold a consultation during summer 2016 on proposals to simplify the process for applying for and agreeing PAYE settlement agreements (see Practice Note: [PAYE settlement agreements](#)). This is in response to the OTS's 2014 [review](#) of employee benefits and expenses. See: [OOTLAR 2016](#) (para 2.58)
- » during summer 2016, the government will consult on proposals to align the dates by which an employee has to 'make good' (ie make payment to their employer) the cost of their benefit-in-kind in order to reduce their tax liability (see Practice Note: [How employment income is taxed—non-cash earnings or benefits](#)). The aim of the proposals is to simplify and clarify the current range of dates for 'making good' payments. See: [OOTLAR 2016](#) (para 2.3), and
- » introducing a technical change to the wording of ITEPA 2003 to ensure that, from 6 April 2016, where the calculation of the tax on a benefit-in-kind is specified in the statute, that charging method must be used. This is not a change in policy. The clarification aims to ensure that 'fair bargain' (which applies where an employee receives goods or services from their employer at exactly the same cost, terms and conditions as a member of the public or other independent third party dealing with the employer on arms-length terms, and results in there being no benefit-in-kind) does not apply to benefits-in-kind which have specific charging rules. The change to the legislation will be included in FB 2016. See: [OOTLAR 2016](#) (para 1.7) and [TIIN: Income Tax: preventing liability to charge being removed from certain taxable benefits in kind](#)

- **OTS Income Tax and NICs alignment review:** the government has welcomed the [OTS's report](#) on the issue of aligning income tax and NICs, and will respond 'in due course'. See: [Budget 2016](#) (paras 1.188, 2.207) and [OOTLAR 2016](#) (para 2.64)
- **OTS next reviews:** the OTS will be commissioned to review the impacts of moving employee NICs to an annual, cumulative and aggregated basis and moving employer NICs to a payroll basis. The terms of reference for the review will be published shortly. See: [Budget 2016](#) (paras 1.188, 2.215) and [OOTLAR 2016](#) (para 2.63)

Measures pre-announced

- **Trivial benefits-in-kind:** the previously announced measures, namely the introduction of a statutory exemption from income tax from 6 April 2016 for certain trivial benefits-in-kind costing £50 or less, remain unchanged. The exemption will also remove the charge to Class 1A NICs from the same date, with a corresponding disregard for Class 1 NICs taking effect later in the year. See: [Budget 2016](#) (para 2.37)
- **Employment intermediaries and relief for travel and subsistence:** as previously announced at Budget 2015, the government will introduce legislation in FB 2016 to restrict tax relief for home to work travel and subsistence expenses for

workers who are engaged through an employment intermediary. FB 2016 will contain some amendments to the previously published [draft legislation](#) in order to allow grouped companies to second workers within the group, and to prevent the organised misuse of PSCs in order to avoid the restrictions. See: [Budget 2016](#) (para 2.39) and [OOTLAR 2016](#) (para 1.11)

REAL ESTATE TAXES

SDLT: non-residential rates

The rates of SDLT on non-residential and mixed use properties will be changed with effect from and including 17 March 2016. Instead of the current slab system, the rates of SDLT for non-residential and mixed use properties will follow a progressive slice system similar to residential property (for which, see Practice Note: [Rates of SDLT](#)) but with different rates and bands. The new rates for non-residential freehold purchases and lease premiums are as follows:

- £0–£150,000: 0%
- £150,001–£250,000: 2%
- £250,000 plus: 5%

A new 2% rate will be introduced for leasehold transactions (from and including 17 March 2016) where the net present value (NPV) of the rent is above £5,000,000. Rent with an NPV of £150,001 – £5,000,000 will continue to be charged at 1%.

These provisions are subject to transitional provisions. Purchasers can elect to apply the old or new rates for contracts which have been exchanged but not completed before 17 March 2016.

See: [Budget 2016](#) (para 2.186), [OOTLAR 2016](#) (para 1.58),, [TIIN, draft legislation, explanatory note and technical note: Stamp Duty Land Tax: reform of charging provisions for non-residential property](#) and [Guidance: Stamp Duty Land Tax: reform of structure, rates and thresholds for non-residential land transactions](#)

Profits from trading in and developing UK land

To prevent property developers using offshore structures to avoid UK tax on their profits, legislation will be included in FB 2016 to tax trading profits from land in the UK, which will apply regardless of whether the developer is resident or non-resident and will not depend on non-residents having a PE in the UK. For more information on PEs and the taxation of non-resident companies see Practice Notes : [What is a UK permanent establishment?](#) and [When does the UK tax non-resident companies?](#) The legislation will have no effect on the taxation of UK resident property developers. It will effect non-resident property developers, who under current rules can structure their development so as to avoid a PE (and a charge to CT).

DTT changes are required with Guernsey, the Isle of Man and Jersey to ensure that the UK has the right to tax UK land. The governments of these countries and the UK have agreed protocols to amend the relevant DTTs with effect from 16 March 2016.

The new rules will apply from the date the legislation is introduced into parliament . A TAAR will apply from 16 March 2016 to prevent structuring around the new charge. HMRC is inviting comments on the new rules and the issues raised in its Technical Note by 29

April 2016.

HMRC will create a new non-resident UK property development taskforce to ensure tax on these profits is collected effectively.

See: [Budget 2016](#) (para 2.94 and 2.95), [OOTLAR 2016](#) (para 1.27) and [Technical Note: Profits from Trading in and Developing UK Land](#)

SDLT: higher rates on purchases of additional residential properties

As previously announced in AS 2015, the government will introduce higher rates of SDLT that will be 3% higher than the standard rates (for which, see Practice Note: [Rates of SDLT](#) for purchases of certain additional residential properties in England, Wales and Northern Ireland. The higher rates will apply to buy-to-let properties and second homes where a main residence is not being replaced and the consideration is £40,000 or more. The higher rates are:

- £0–£125,000: 3%
- £125,000–£250,000: 5%
- £250,000–£925,000: 8%
- £925,000–£1,500,000: 13%
- £1,500,000 plus: 15%

The higher rates will apply from 1 April 2016, subject to transitional provisions.

The government consulted on the policy design of the higher rates for additional residential properties between 28 December 2015 and 1 February 2016. As a result of the consultation the following changes were made to the policy design of the provisions:

- where a purchaser pays the higher rate because they have not sold their previous main residence, the purchaser may reclaim a refund of the higher rate if they sell their previous main residence within 36 months (the consultation suggested an 18 month time period)
- where a purchaser with more than one property disposes of a main residence they have 36 months to buy a new main residence before the higher rates apply (again the consultation suggested an 18 month time period)
- there will be no exemption for large scale investors (the consultation suggested a portfolio test or bulk purchase test would be introduced to exempt large scale investors from the higher rates)
- married couples who are living separately in certain circumstances will not be treated as one unit for the purpose of the rules, and
- where 50% or less of a single property has been inherited within 36 months of the purchase of a residential property this will not be considered as an additional property (and the higher rates will not apply)

The higher rates will apply to claims for multiple dwellings relief. Where six or more dwellings are purchased in a single transaction the purchaser can choose whether to apply the residential or non-residential rates.

See: [Budget 2016](#) (para 2.183) (para 2.183), [OOTLAR 2016](#) (para 1.59), [TIIN: Stamp Duty Land Tax: reform of charging provisions for](#)

non-residential property, [Guidance Note: Stamp Duty Land Tax: higher rates for purchases of additional residential properties](#), [Summary of Consultation Responses: Higher rates of Stamp Duty Land Tax \(SDLT\) on purchases of additional residential properties: summary of consultation responses and TIIN, draft legislation, explanatory note and technical note: Stamp Duty Land Tax: higher rates on purchases of additional residential properties](#)

Measures pre-announced

The following real estate measures will be included in FB 2016:

- **SDLT: authorised property funds:** the government will introduce a seeding relief for PAIFs and co-ownership authorised contractual schemes (CoACSs) and will change the SDLT treatment of CoACSs investing in property so that SDLT does not arise on transactions in units. Some minor changes have been made to the draft legislation published on 9 December 2015. See: [Budget 2016](#) (para 2.184), [OOTLAR 2016](#) (para 1.60)
- **15% SDLT rate and ATED: scope of reliefs:** the government will extend the reliefs available from ATED and the 15% higher rate of SDLT to equity release schemes, property development activities and properties occupied by employees from 1 April 2016. Some minor changes have been made to the draft legislation published on 9 December 2015. See: [Budget 2016](#) (para 2.185), [OOTLAR 2016](#) (para 1.61)
- **CGT: non-UK residents disposing of residential property:** the government will amend the CGT computations required when calculating the non-resident CGT charge to remove a double charge that occurs in some circumstances. The amendment will have retrospective effect from 6 April 2015. Following consultation on the draft legislation, the government will also prescribe with effect from 6 April 2015 two circumstances where a return is not required and give HM Treasury, rather than HMRC, powers to add, amend or remove circumstances and make consequential provision. See: [Budget 2016](#) (para 2.194), [OOTLAR 2016](#) (para 1.51), and
- **Reform of wear and tear allowance:** the government will replace the wear and tear allowance with a new relief that allows residential landlords to deduct the cost of replacing certain domestic items. Some minor changes have been made to the draft legislation previously published. See: [Budget 2016](#) (para 2.28), [OOTLAR 2016](#) (para 1.23)

PERSONAL TAXES

CGT rates

CGT is currently charged at 28% for higher and additional rate taxpayers, trustees and personal representatives as well as being the rate applicable to ATED-related chargeable gains. For a basic rate taxpayer whose income and gains are below the income tax basic rate band, the rate of CGT is 18%. Gains which qualify for entrepreneurs' relief are charged at 10%.

The government has announced that, for gains accruing on or after 6 April 2016, the rate of CGT will be reduced to 20% for higher and additional rate taxpayers, trustees and personal representatives. For basic rate taxpayers (provided the income and gains are still below the individual's income tax basic rate band), the rate will be reduced to 10% and it will be made clear that

an individual can use any unused income tax basic rate band in a way which is most beneficial to them.

The rate reductions will not apply to disposals of residential property that do not qualify for private residence relief, or to carried interest.

See: [Budget 2016](#) (para 2.187), [OOTLAR 2016](#) (para 1.46) and [TIIN: Changes to Capital Gains Tax rates](#)

Increased income tax allowances and thresholds

The following announcements were made on income tax personal allowances and thresholds:

- the personal allowance will increase to £11,000 in 2016/17 and £11,500 in 2017/18
- the higher rate threshold will increase to £43,000 in 2016/17 and £45,000 in 2017/18 (and the NICs upper earnings limit will increase to remain aligned)

See: [Budget 2016](#) (paras 2.20, 2.21)

New tax free allowances for micro-entrepreneurs

There will, from April 2017, be two new £1,000 allowances for property and trading income for individuals meaning that:

- for those with income under £1,000 there will be no need to declare the income or pay the tax, and
- for those with income over £1,000 they have the choice to calculate their profit as usual or to deduct the allowance from their gross income

The provisions are designed to encourage micro-entrepreneurs in the context of the rapid growth in the 'digital and sharing economy'.

See: [Budget 2016](#) (paras 2.25, 4.6) and [OOTLAR 2016](#) (para 2.14)

NICs for self-employed

Class 2 NICs (which are payable at a flat weekly rate by self-employed persons) are to be abolished from April 2018. This abolition will be accompanied by changes to class 4 NICs (payable by self-employed persons based on their profits) so that the self-employed can continue to build entitlement to contributory benefits such as state pensions (which currently accumulates from the payment of Class 2 NICs). The legislation will be included in a future NICs bill.

The government will also shortly publish its response to the consultation which closed on 24 February 2016.

See: [Budget 2016](#) (paras 1.167, 2.23) and [OOTLAR 2016](#) (para 2.65)

Loans to participators

FB 2016 will include legislation increasing the loans to participators tax rate from 25% to 32.5% so that it remains aligned with the higher rate of tax charged on dividends (following the changes to dividend taxation from April 2016). The loans to participators rules aim to prevent owner of close companies from remunerating themselves through loans or advances (which remain unpaid) instead of dividends or salary which would attract income tax and NICs. The new rate will apply to loans, advances and arrangements made on or after 6 April 2016.

See: [Budget 2016](#) (paras 1.151, 2.42), [OOTLAR 2016](#) (para 1.34) and [TIIN: Corporation Tax: rate of tax for the loans to participators charge](#)

ISAs

From April 2017 the ISA limit will go up to £20,000 and there will be a new type of 'lifetime ISA' which enables those under 40 to save up to £4,000 a year (with a 25% government bonus) which can be used for:

- buying a first home, or
- extracting after the age of 60

The legislation is expected to be finalised later in 2016.

See: [Budget 2016](#) (para 2.50), [OOTLAR 2016](#) (para 2.15), [Lifetime ISA factsheet](#), and [Technical note: lifetime ISA](#)

Measures pre-announced

From April 2016:

- **dividend taxation for individuals:** the dividend tax credit will be abolished and replaced with a £5,000 tax free allowance and an increase for dividend tax rates to 7.5% for basic rate, 52.5% for higher rate and 38.1% for additional rate taxpayers. See: [Budget 2016](#) (para 2.41) and Draft FB 2016, [clauses 2-3](#)
- **personal savings allowance:** a savings allowance of £1,000 for basic rate taxpayers and £500 for higher rate taxpayers will be introduced. Minor changes are being made to the draft legislation. See: [Budget 2016](#) (para 2.58), [OOTLAR 2016](#) (para 1.2) and Draft FB 2016, [clause 1](#)

VAT

Tackling online fraud in goods

HMRC will be given stronger powers to tackle non-compliance by overseas businesses that avoid paying UK VAT on sales to UK consumers via online marketplaces. The first part of this measure will strengthen the existing rules that allow HMRC to direct an overseas business to appoint a VAT representative. Secondly, and in more serious cases of non-compliance, HMRC will be able to make the online marketplace jointly and severally liable for the unpaid VAT on goods sold through its online marketplace. The measure will have effect from Royal Assent to FB 2016.

See: [Budget 2016](#) (para 2.146), [OOTLAR 2016](#) (para 1.57) and [TIIN: VAT: representatives for overseas businesses and joint and several liability for online marketplaces](#)

VAT registration and de-registration thresholds

From 1 April 2016, the VAT registration threshold will increase from £82,000 to £83,000 and the deregistration threshold from £80,000 to £81,000, in line with inflation.

See: [Budget 2016](#) (paras 1.187, 2.149) and [OOTLAR 2016](#) (para 2.37) and [TIIN: VAT: revalorisation of registration and deregistration thresholds](#)

TAX AVOIDANCE AND EVASION

UK activity in response to the BEPS actions

The government has announced, as part of the Business tax roadmap published alongside Budget 2016, that in response to the [Final BEPS Reports](#) in October 2015 it intends to implement a comprehensive package of measures to modernise the UK's tax rules in order to ensure they are applied effectively to multinationals. Three announcements (not covered elsewhere) are worthy of particular note:

- **Action 3 (CFC rules)**—the government has confirmed that it is not considering making any amendments to the UK's CFC regime as a result of the BEPS Project
- **Action 12 (Disclosure of BEPS)**—although the UK already has a mandatory disclosure regime (the DOTAS rules), the government has announced that it will continue to contribute to international work that will, among other things, consider how mandatory disclosure regimes, such as DOTAS could be extended to apply to cross border arrangements, and
- **Action 13 (CbCR)**—although the government has already legislated to require companies to report information on a country-by-country basis to HMRC, the government has stated that it 'believes there is an opportunity to go beyond the outcomes of the BEPS project' by requiring companies to publicly disclose the details of tax paid, on a country-by-country basis. This accords with similar developments within Europe as part of the EC [Anti Tax Avoidance Package](#) (announced in January 2016). The government has announced that the UK will now 'press the case' for multilateral public CbCR

See: [Business tax road map](#) (paras 2.28–2.29, Box 2.B)

Future developments

- **HMRC data-gathering powers:** the government will consult over summer 2016 on a further extension to HMRC's data-gathering powers, to enable it to collect data from money services businesses. This is part of a package of measures aimed at 'tackling the hidden economy'. See: [Budget 2016](#) (para 2.198) and [OOTLAR 2016](#) (para 2.62)
- **Avoidance penalties and reasonable care:** the government will consider clarifying the meaning of a reasonable excuse in avoidance penalty cases, so that avoiders cannot rely on generic third party legal advice obtained from the promoter (no time scale is given). See: [Budget 2016](#) (para 2.204) and [OOTLAR 2016](#) (para 2.51)
- **Enabling tax avoidance:** the government will consider new measures aimed at those who 'enable' tax avoidance schemes (again, there is no timescale). See: [Budget 2016](#) (para 2.204) and [OOTLAR 2016](#) (para 2.52)
- **VAT avoidance:** the government will consult over summer 2016 on reforming the rules on the disclosure of VAT avoidance schemes, by aligning them with the (direct tax) rules on DOTAS and extending coverage to other indirect taxes. The idea of aligning the VAT disclosure rules with DOTAS was initially consulted on in 2014 but did not progress beyond consultation at that time. See: [Budget 2016](#) (para 2.204) and [OOTLAR 2016](#) (para 2.53)

Measures pre-announced

- **Large business:** as announced at Summer Budget 2015 and following consultation on the draft clauses published on 9 December 2015 (for which see News Analyses: [Draft Finance Bill 2016—large businesses tax strategy](#), [Draft Finance Bill 2016—large business special measures regime and greater transparency](#)), FB 2016 will (i) require large businesses to publish their tax strategy as it relates to UK tax, and (ii) include a special measures process to tackle large businesses that engage in aggressive tax planning and/or refuse to engage or collaborate with HMRC. The revised legislation will be amended to clarify the entities that are within the scope of the legislation. See: [Budget 2016](#) (para 2.93), [OOTLAR 2016](#) (para 1.76), [Business tax roadmap](#) (para 2.41), [TIIN, draft legislation and explanatory note \(9 December 2015\): Tax administration: large businesses transparency strategy](#), [TIIN, draft legislation and explanatory note \(9 December 2015\): Tax administration: large business special measures regime](#)
- **GAAR penalties:** as announced at Summer Budget 2015 (and outlined in Practice Note: [The general anti-abuse rule \(GAAR\) – Future of the GAAR](#)), FB 2016 will include a penalty of 60% of the tax counteracted under the GAAR and make changes to strengthen the impact of the GAAR in tackling marketed avoidance schemes, which should take effect on the date of Royal Assent of FB 2016. See: [Budget 2016](#) (para 2.206)
- **Serial avoiders:** FB 2016 will include new sanctions for those who persistently enter into tax avoidance schemes that are defeated by HMRC. This has a different emphasis from the DOTAS rules, which are aimed at promoters rather than scheme users. The sanctions include special reporting rules, penalties, naming and shaming, and restriction of access to reliefs. The rules on promoters of tax avoidance schemes (POTAS) are also being strengthened. See: [Budget 2016](#) (para 2.205)
- **HMRC data-gathering powers:** as announced in Summer Budget 2015, FB 2016 will extend HMRC's data-gathering powers in FA 2008, Sch 36 to enable HMRC to require data from electronic payment providers (such as operators of digital wallets) and online intermediaries. HMRC hopes to use this information to identify sellers that have not registered with HMRC or who have not declared the full value of their sales. This follows a consultation published in July 2015. See: [Budget 2016](#) (para 2.199)

ENERGY AND ENVIRONMENT

Oil and gas

Budget 2016 contained numerous oil and gas tax measures, namely:

- a permanent reduction in the rate of Petroleum Revenue Tax from 35% (which was announced at Budget 2015) to 0%. This zero-rating will be contained in FB 2016 and takes effect for periods ending after 31 December 2015. In addition, there will be a reduction in the rate of supplementary charge from 20% to 10%. This reduction will be contained in FB 2016 and takes effect for periods starting on or after 1 January 2016. See [OOTLAR 2016](#) (para 1.40, 1.37) and [TIIN: Oil and gas taxation: reduction in Petroleum Revenue Tax and supplementary charge](#)

- amendments to the anti-avoidance provisions in the onshore, cluster area and investment allowances will be included in FB 2016. These changes will update the conditions which disqualify expenditure, incurred on the acquisition of an asset in certain circumstances, from generating allowance. These amendments ensure the legislation works as intended. See [OOTLAR 2016](#) (para 1.39) and [TIIN: Oil and gas taxation: minor amendments to onshore, cluster area and investment allowances](#)
- the granting of a new power, through FB 2016, to HMRC to extend the definition of 'relevant income' for the cluster area and investment allowances by secondary legislation. The government intends to allow tariff income to activate the allowance in order to encourage investment in infrastructure. See [OOTLAR 2016](#) (para 1.38)
- confirmation that, when a company retains decommissioning liability for an asset after sale, it will be able to access tax relief on its costs. HMRC has issued a technical note to clarify its interpretation of CAA 2001, Part 2, Chapter 13. See [OOTLAR 2016](#) (para 2.27) and [TIIN: Oil and Gas companies: tax relief for decommissioning expenditure](#)

See: [Budget 2016](#) (paras 2.131–2.136)

Environment

The government announced a number of measures following the conclusion of the business energy efficiency tax review (see: Consultation: [reforming the business energy efficiency tax landscape](#)), including:

- abolishing the carbon reduction commitment (CRC) energy efficiency scheme from the end of the 2018/19 compliance year
- increasing the main rates of the climate change levy (CCL) from 1 April 2019, with the intention of making a compensatory equivalent increase in the CCL discounts for sectors with climate change agreements, and
- consulting later in 2016 on a simplified energy and carbon reporting framework for introduction by April 2019

In addition, the government will consult on potential legislation for FB 2017:

- to clarify the scope of landfill tax, by changing the definition of a taxable landfill disposal, and
- to introduce a new exemption from aggregates levy for aggregate that is a by-product of laying pipes for utilities

See: [Budget 2016](#) (paras 1.190, 2.170–2.178), [TIIN: Climate Change Levy: main and reduced rates](#), and [Business tax road map](#) (paras 2.45–2.50)

[Budget 2016: Chancellor's speech](#)

[Budget 2016: The Red Book](#)

[Budget 2016: OOTLAR](#)

[Notes on Finance Bill 2016 resolutions](#)

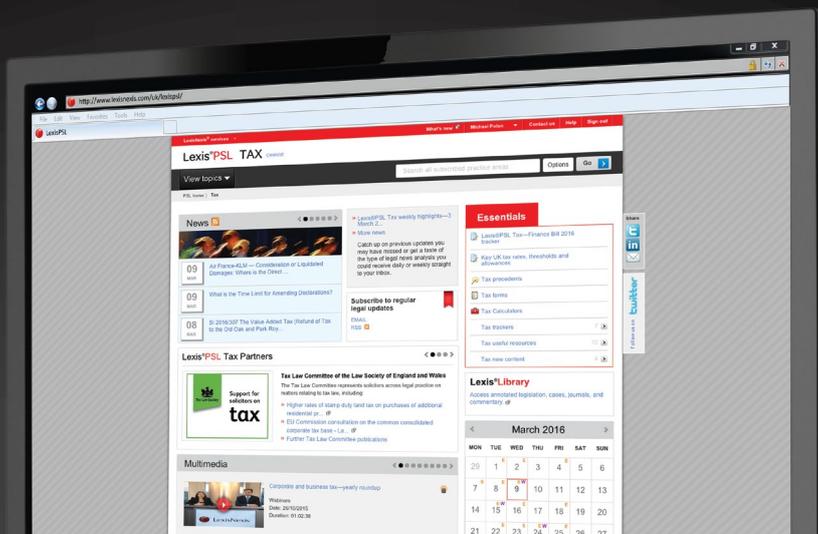
[Budget 2016: policy costings](#)

[Impact on households: distributional analysis to accompany Budget 2016](#)

[Budget 2016 data sources](#)

[Budget 2016: HMRC document collection](#)

[OBR: Economic and fiscal outlook March 2016](#)



LexisPSL Tax

Clear, no-nonsense practice notes take you through what you need to know—with direct links straight to the right part of the trusted tax bibles: Tolley’s Yellow and Orange Tax Handbooks, Simon’s Tax Cases and HMRC’s Manuals. And when you need to delve deeper, direct links to trusted authority, including Simon’s Taxes, Sergeant and Sims on Stamp Taxes, De Voil Indirect Taxes, Tolley’s Tax Annuals, plus articles from Tax Journal and Taxation, in Lexis®Library.

Benefits

- Stay on top of the latest developments and find the answers you need fast.
- Our succinct practice notes and layered approach give you more control over accessing the level of information you need.
- LexisPSL Tax contains a range of precedents with detailed drafting notes, and direct links through to cases, legislation and relevant commentary.
- Receive legal and market news in your inbox, with ‘so what’ analysis.
- Our Lexis®Smart Forms are available in PDF format, allowing them to be easily edited electronically, saved, printed and emailed.
- Access time saving tools such as checklists and flow charts and trackers: a series of regularly updated tracking tools to provide you with the latest developments.
- With direct links to LexisLibrary, you can access the UK’s most authoritative and comprehensive collection of consolidated legislation, cases, forms, precedents and commentary.

For a free trial of LexisPSL Tax,
visit lexisnexis.co.uk/TaxPSL/Budget2016

The Future of Law. Since 1818.



RELX (UK) Limited, trading as LexisNexis. Registered office 1-3 Strand London WC2N 5JR Registered in England number 2746621 VAT Registered No. GB 730 8595 20. LexisNexis and the Knowledge Burst logo are trademarks of Reed Elsevier Properties Inc. © LexisNexis 2016 SA-0316-077. The information in this document is current as of March 2016 and is subject to change without notice.