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Locke Lord QuickStudy: UK Mini-Budget 2022 – Summary of ?Implications for Employers

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On Friday 23 September 2022, Chancellor Kwasi Kwarteng, set out a number of tax and regulatory changes that will affect UK employers in an effort to boost economic growth. Below we set out a summary of the key changes for employers.

Bonus rules – banking and insurance

While widely trailed in advance, the Chancellor confirmed the ending of the requirement to limit bankers' variable pay to a multiple of two times their fixed remuneration. But buried in the small print was also a commitment to scrap Solvency II which applies to insurers. While not explicit on the point, at face value this would include the removal of the Solvency II remuneration rules that require a minimum three year deferral period of at least 40% of variable remuneration for Solvency II staff and the obligation to apply malus where appropriate. It would be an odd position should the government not follow through on this and align the banking and insurance sectors and particularly when the latter is generally seen as less systemically risky. Whether malus and clawback will also be abolished remains to be seen in the finer details.

IR35 off-payroll working rules to be abolished from April 2023

IR35 has been a bugbear for both businesses and individuals providing services via a personal service company (PSC). It required an end user to assess whether, but for the interposed PSC, the individual would be treated as an employee and, if so, to withhold income tax and national insurance and to pay employer's national insurance contributions. While largely process driven, it nevertheless meant that either individuals had to accept a lower income or for the end user to increase fees to cover the loss of the tax advantaged positon of the individual making use of the PSC. In addition, the extra cost, via employer's NI, and the administrative time and effort it took to implement led many end users to decide it was simply too difficult and end the use of consultants using PSCs altogether. End users and consultants are likely to welcome this change, both in term of cost but also that arrangements can now be put in place with greater ease and, importantly, certainty.

Investment zones

The government has committed to developing investment zones that will benefit from tax advantaged status and lower regulation. The key aspect for businesses is that employer's national insurance will not be payable until individual employee earnings reach £50,270 realizing a saving for the business of £6,600 per year for employees having earnings at that level. The only qualification requirement is that the employee works at least 60% of their time within the investment zone. At present 38 sites have been provisionally identified, typically at regional airports and ports.

Income tax changes

Again while the basic rate reduction to 19% from 20% was made known in advance, the abolition of the additional 45% rate for earnings above £150,000 from April 2023 was wholly unexpected and is likely to see employers being approached by employees in order to defer 2022 bonus payments to after 6 April 2023 in order to maximize tax efficiency. This is perfectly lawful and has historically been common where tax rates have changed provided the agreement makes clear the deferral criteria and what occurs if the employee leaves prior to the deferred payment date. Slightly different considerations apply for director employees and Scottish employers.

In addition, the 1.25% increase in national insurance will be revoked by 6 November 2022 and the 1.25% health and social care levy due to apply from 6 April 2023 has being cancelled.

Company share option plans

Tax advantaged discretionary share option plans will from April 2023 be able to issue options up to a value of £60,000, double the current £30,000 limit valued at the date of grant.

Industrial action

The government has committed to introducing new restrictions on strikes in the transport sector by requiring a minimum level of service and the requirement for unions to put pay offers to employees prior to strikes being permitted.

The full Government Growth Plan can be accessed here.

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