Finance (No. 2) Act 2017

Background

The first Budget of 2017, presented on 8 March, was followed by a Finance Bill that ran to over 750 pages, the longest ever. When the Prime Minister called a snap general election a little under six weeks later, the size of the Bill presented a problem. To get the Bill to Royal Assent stage before Parliament was prorogued, drastic cuts had to be made. The unfortunate result was a Finance Act (**Finance Act 2017**) that was a mere 155 pages long, with a large amount of proposed legislation hanging in limbo, much of it with a planned commencement date of 6 April 2017.

To rectify matters, a fresh Finance Bill (Finance Bill 2017–19) was introduced in September. This ran to just over 670 pages and was largely, but not entirely, a reinstatement of the clauses which had been dropped in haste back in April. The new Bill passed through Parliament with some speed and received Royal Assent as the **Finance (No. 2) Act 2017** on 16 November 2017, six days before Mr Hammond was due to give his first Autumn Budget.

Main features

The main provisions of interest to financial advisers are:

Pensions advice (section 3)

An exemption for the first £500 per tax year of employer-financed pension advice (including general financial and tax issues relating to pensions) takes retrospective effect from 6 April 2017. This replaces a previous, more restrictive exemption, which was limited to £150.

Money purchase annual allowance (MPAA) (section 7)

The MPAA has been reduced from £10,000 to £4,000 with retrospective effect from 6 April 2017.

Dividend allowance (section 8)

The dividend allowance will be reduced from £5,000 to £2,000 from the tax year 2018/19.

Life policy gains (section 9)

Policyholders will be able to apply for a review by HM Revenue & Customs (HMRC) of a life policy chargeable gains calculation where the gain on a part surrender or part assignment is 'wholly disproportionate'. This provision will apply from Royal Assent. An application must normally be made within the four tax years following that in which the original gain arose.

Trading and property allowances (section 17)

Two new allowances of £1,000 each for trading and property income have been introduced retrospectively from 6 April 2017, giving full relief on trading and property income of up to £1,000. Partial relief is also provided where trading or property income exceeds the allowance, by permitting an individual to calculate their profits by deducting the £1,000 allowance from their receipts, rather than deducting actual allowable expenses.

Deemed domicile (sections 29-32)

With retrospective effect from 6 April 2017, a non-domiciled individual who has been resident in the UK for at least 15 of the preceding 20 tax years is treated as UK domiciled for the purposes of income tax, capital gains tax (CGT) and inheritance tax (IHT).

Similarly, a non-domiciled individual who was born in the UK with a UK domicile of origin and is resident in the UK for the relevant tax year is also treated as UK domiciled for income tax and CGT purposes. Deemed UK domicile for IHT purposes will only apply to such an individual if they have also been UK resident in at least one of the two previous tax years.

Various transitional provisions have been introduced, e.g., in respect of overseas trusts and the cleansing of mixed funds.

Inheritance tax on overseas property representing UK residential property (section 33)

With retrospective effect from 6 April 2017, the scope of IHT is extended to UK residential property held by a non-domiciled individual through an overseas structure. This negates a common practice for non-domiciled individuals to avoid IHT by holding their UK property indirectly through offshore structures such as companies, trusts and partnerships. This change adds to the obstacles when structuring the purchase of UK residential property, such as the annual tax on enveloped property (ATED), and will encourage some non-domiciled individuals to unscramble their existing arrangements.

Penalty for enablers of defeated tax avoidance schemes (section 65)

A new penalty will apply to any person who enables the use of ‘abusive tax avoidance arrangements’, which are later defeated. Enablers are defined as those who design, manage, market or otherwise facilitate (including the provision of financial products) tax avoidance. The penalty charged is equal to the fee(s) paid to the enabler. This provision will apply from Royal assent.

Requirement to correct certain offshore non-compliance (section 67)

A new Requirement to Correct (RTC) applies to taxpayers who have undeclared past UK tax liabilities in respect of their offshore interests. Failure to carry out the necessary correction by 30 September 2018 will render taxpayers liable to a new ‘failure to correct’ (FTC) penalty. The requirement covers income tax, CGT and IHT involving offshore matters.