Finance Act 2019: overview

The Finance Act 2019 received Royal Assent on 12 February 2019. It was originally introduced to Parliament as Finance (No.3) Bill 2018.

Certain key provisions were passed without amendment or much debate, while others were amended and heavily debated, with representations being made by ACCA.

Below we highlight some of the main areas and impact of the act.

PART 1: DIRECT TAXES

Charge to tax

1 Income tax charge for tax year 2019-20
Income tax is charged for the tax year 2019-20.

2 Corporation tax charge for financial year 2020
Corporation tax is charged for the financial year 2020.

Income tax rates, allowances and limits

3 Main rates of income tax for tax year 2019-20
Basic rate, higher rate and additional rate remain the same at 20%, 40% and 45%.

4 Default and savings rates of income tax for tax year 2019-20
Default basic rate, higher rate and additional rate remain the same at 20%, 40% and 45%.

5 Basic rate limit and personal allowance
For the tax years 2019-20 and 2020-21, basic rate limit is £37, and personal allowance is £12,500.

6 Starting rate limit for savings for tax year 2019-20
For the tax year 2019-20, the starting rate limit for savings remains at £5,000.

Employment and social security income

7 Optional remuneration arrangements: arrangements for cars and vans
This clause addresses two issues in the Optional Remuneration Arrangements (OpRA) rules. From 6 April 2019:

- when a taxable car or van is provided through OpRA, the amount foregone is taken into account in working out the amount reportable for tax and national insurance contributions purposes and that includes costs connected with the car or van (such as insurance) and
- the value of any capital contribution towards a taxable car when the car is made available for only part of the tax year) is adjusted.

8 Exemption for benefit in form of vehicle-battery charging at workplace
For the tax year 2018-19 and subsequent tax years, no liability to income tax arises in respect of the provision, at or near an employee's workplace, of facilities (made generally available to employees) for charging a battery of a vehicle used by the employee.

9 Exemptions relating to emergency vehicles
This clause introduces three revisions to the tax treatment of emergency vehicles.

- Firstly, there is an extension to the current 'on-call' exemption to allow for ordinary commuting in an emergency vehicle when not on call.
- Secondly, there is a provision to ignore fuel as an 'additional expense' in working out the tax charge if certain conditions are met.
- Finally, there are transitional arrangements for the taxation of emergency vehicles for the period 6 April 2017 to 5 April 2020.

This ensures that a small number of employees in the emergency services avoid an immediate significantly increased tax charge for having their emergency vehicle available for private use following changes to the 'use of assets' legislation in Finance Act 2017.

10 Exemption for expenses related to travel
This clause removes the requirement for employers to check receipts or other forms of documentary evidence of the amounts spent by employees when using the HMRC benchmark scale rates to pay or reimburse their employees' qualifying subsistence expenses. This clause also makes necessary amendments to allow HMRC to introduce a statutory exemption for overseas scale rates, subject to the same checking requirements as benchmark scale rates. This clause has effect from for the tax year 2019-20 and subsequent tax years.

11 Beneficiaries of tax-exempt employer-provided pension benefits
This section concerns premiums paid by employers into life assurance products or contributions to certain overseas pension schemes. These contributions are currently only tax exempted if the beneficiary of the policy or pension is the employee or a member of the employee's family or household. This measure will allow the beneficiary to be any individual or registered charity nominated by the employee, without the premiums being treated as a taxable benefit in kind.

12 Tax treatment of social security income
This section confirms the tax treatment of the following:

- Young Carer Grant, Best Start Grant, Funeral Expense Assistance and Discretionary Housing Payments, payable under the Social Security (Scotland) Act 2018, are tax exempt.
- Carer's Allowance Supplement payable under the Social Security (Scotland) Act 2018 are taxable.
- Discretionary Support Scheme payable under the Discretionary Support Regulations (Northern Ireland) 2016 are tax exempt.
- Council Tax Reduction Scheme payable under the Local Government Finance Act 1992 are tax exempt.
- Discretionary Housing Payments payable under the Child Support, Pensions and Social Security Act are tax exempt.
- Flexible Support Fund payable under the Employment and Training Act 1973 are tax exempt.

Chargeable gains: interests in UK land etc

13 Disposals by non-UK residents etc
The clause introduces Schedule 1 which amends the law relating to the taxation of chargeable gains as to

- extend the cases in which gains accruing to persons not resident in the United Kingdom are chargeable to tax,
- abolish the specific charge to tax on ATED-related chargeable gains, and
- provide that gains accruing to companies are chargeable only to corporation tax.

14 Disposals of UK land etc: payments on account of capital gains tax
The clause, together with Schedule 2, makes provision requiring returns and payments on account to be made, for the purposes of capital gains tax and corporation tax, in respect of any direct or indirect disposal of an interest in land in the United Kingdom by a person not resident in the United Kingdom, or by a person in the overseas part of a tax year.

International matters

15 Offshore receipts in respect of intangible property (previously Royalties Withholding Tax)

The clause introduces Schedule 3, which contains provision to tax offshore receipts in respect of intangible property on the UK-derived amounts. Withholding tax will apply to royalty payments made by connected parties to non-UK residents for the exploitation of intellectual property (IP) (or certain other rights) in the UK.

16 Avoidance involving profit fragmentation arrangements
The clause introduces Schedule 4, which contains provision that prevent UK traders and professionals from avoiding UK tax by arranging for their UK-taxable business profits to accrue to entities resident in territories where significantly lower tax is paid than in the UK. The counteraction will be effected by adding those profits to the profits of the UK trade.

17 Non-UK resident companies carrying on UK property businesses etc
The clause together with Schedule 5 contains provision for non-UK resident companies to be chargeable to corporation tax (rather than to income tax as at present) on profits of UK property businesses, profits consisting of other UK property income, and profits arising from certain loan relationships and derivative contracts that the company is a party to for the purpose of the property business. The change has effect from 6 April 2020.

18 Diverted profits tax
The clause introduces Schedule 6, which contains provision about diverted profits tax. The rules counter two types of arrangements used by large groups to artificially divert profits from the UK:

- Firstly it catches situations where a company with a UK-taxable presence uses arrangements lacking economic substance to artificially divert profits from the UK to low-tax jurisdictions.

- Secondly, situations where a person carries on activities in the UK for a foreign company that are designed to artificially avoid creating a UK permanent establishment, and thereby a UK taxable presence, of that foreign company.

19 Hybrid and other mismatches: scope of Chapter 8 and “financial instrument”
This section introduces two changes with regard to taxation of financial instruments.

- The first change relates to the treatment of certain mismatches involving permanent establishments. Provisions are included in relation to cases where a permanent establishment of a company is recognised by the jurisdiction where a company is resident, but not recognised by the jurisdiction where the permanent establishment is located. Such disregarded permanent establishments will be brought within the scope of the rules. The change will have effect from 1 January 2020.
- The second change relates to the treatment of regulatory capital. The exemption for certain regulatory capital has been amended to enable regulations to be made which can provide a revised definition of regulatory capital that falls outside the scope of the rules. This regulatory power will enable the hybrid mismatch rules in relation to regulatory capital to take into account the specific requirements set out by EU directive. The change will have effect from 1 January 2019.

20 Controlled foreign companies: finance company exemption and control
This clause introduces amendments to the controlled foreign companies (CFC) regime in Part 9A TIOPA 2010 in relation to the finance company exemption and the definition of control. Definition of the control is revised as follows: if a UK resident company (whether alone or together with any associated enterprises) directly or indirectly has more than a 50% investment in a non-UK resident company, the non-UK resident company is to be taken to be a CFC (if it would not otherwise be).

21 Permanent establishments: preparatory or auxiliary activities
With effect from 1 January 2019 Section 1143 of CTA is amended, so the company or a person closely related to the company is to be treated as having a permanent establishment in a territory if the business activity has been artificially fragmented to avoid creating a permanent establishment.

22 Payment of CGT exit charges
The clause introduces Schedule 7, which contains provision about capital gains tax (CGT) exit charge payment plans allowing: trusts ceasing to be UK resident or non-UK resident individuals who trade through a UK branch or agency to defer, in certain cases, payment of the CGT that may arise when, for example, a trust ceases to be tax resident in the UK or, in the case of a non-UK resident individual who trades through a UK branch, assets cease to be used in that UK trade. The deferred CGT will be subject to interest under the usual rules.

23 Corporation tax exit charges
The clause introduces Schedule 8 which makes provision to amend the rules for corporation tax exit charge payment plans, repeal provisions that provide for the postponement of exit charges and introduce rules to ensure that market value is used as the starting value for corporation tax purposes where certain assets have been subject to an exit charge in an EEA state. The schedule is made up of three Parts: corporation tax exit charge payment plans, repeal of certain postponement provisions and treatment of assets subject to EU exit charges.

24 Group relief etc: meaning of “UK related” company
This clause extends the definition of “UK related” company for the purposes of group relief to include non-UK resident companies that are within the charge to corporation tax. This means that the definition is not limited, for non-UK group companies, to those that carry on a trade in the UK through a permanent establishment.

Corporation tax: miscellaneous

25 Intangible fixed assets: restrictions on goodwill and certain other assets
This clause introduces Schedule 9 that amends Part 8 of the Corporation Tax Act (CTA) 2009 to allow fixed-rate relief for goodwill and certain other assets acquired in business acquisitions occurring on or after 1 April 2019. In a given business acquisition, the expenditure on relevant assets that will be eligible for relief will be limited to six times the value of any qualifying intellectual property (IP) assets acquired with the business. The relief will

also be given at a fixed rate of 6.5% of cost per annum rather than on an accounting basis. The clause and schedule continue to restrict relief for relevant assets that were subject to the section 816A restriction in the hands of a company between the date these reforms to goodwill relief were announced, 29 October 2018, and 1 April 2019, when Chapter 15A takes effect. This core “pre-FA 2019” restriction is supplemented by several anti-avoidance rules which prevent it from being circumvented by arrangements involving transactions with related parties. The schedule also reinstates a restriction, similar to that introduced by the Finance Act 2015 from 3 December 2014, on relevant assets acquired in a related party incorporation. These changes are intended to provide relief for acquired relevant assets to the extent that the business value is connected to IP acquired with the business that would itself qualify for relief under Part 8.

26 Intangible fixed assets: exceptions to degrouping charges etc

This clause reforms the degrouping rules in Part 8 of the Corporation Tax Act 2009. It provides that a degrouping charge will no longer arise in situations in which a company leaves a group as a result of a share disposal that qualifies for the Substantial Shareholding Exemption. This clause is intended to remove an obstacle to commercially motivated merger and acquisition activity. It aligns the Part 8 degrouping rules with the equivalent provisions in the chargeable gains code.

27 Corporation tax relief for carried-forward losses

This clause and Schedule 10 make changes to the loss reform legislation in Part 7ZA of the Corporation Tax Act 2010 (CTA 2010) to ensure that it meets the policy objectives which are to restrict relief for certain carried-forward losses and also allow these to be used more flexibly. The schedule changes the way in which restricted losses are calculated by all companies, and how the regime applies to insurers within the Basic Life Assurance and General Annuity Business (BLAGAB) in order to prevent companies accessing an excessive amount of the deductions allowance. The schedule also makes amendments to the calculation of terminal relief within section 45F CTA 2010, the allocation of the deductions allowance where a company is a member of more than one group, prevents carried-forward shock losses of insurance companies being surrendered as group relief and makes other minor consequential amendments.

28 Corporate interest restriction

This clause and Schedule 11 make certain technical amendments to the Corporate Interest Restriction (CIR) rules in Part 10 and Schedule 7A of the Taxation (International and Other Provisions) Act (TIOPA) 2010 to ensure that the regime works as intended.

29 Debtor relationships of company where money lent to connected companies

This clause and Schedule 12 introduces new rules which identify where an external loan relationship and loan relationships internal to the group are linked. It provides that in such cases both external and internal loan relationships are taxed on an amortised cost basis. This will eliminate tax mismatches in all similar situations, including those involving the regulatory capital of a financial business.

Capital allowances

30 Construction expenditure on buildings and structures
This clause amends the Capital Allowances Act 2001 (CAA 2001) to provide for allowances under that act for qualifying expenditure incurred on or after 29 October 2018 on the construction of a building or structure in qualifying use. Once the structure or building enters qualifying use, businesses chargeable to either income or corporation tax that had incurred qualifying expenditure will be able to claim relief over a 50-year period, as a deduction from their profits at an annual rate of 2%. Neither land nor dwellings will be eligible for relief, including workspaces within domestic settings. Where use is mixed between commercial and residential, relief will be reduced by apportionment. Similarly, where an asset's value appreciates after its acquisition, relief will not increase.

31. Special rate expenditure on plant and machinery
This clause reduces the rate of special writing-down allowance for new and unrelieved expenditure from the relevant date of 1 April 2019 (corporation tax) or 6 April 2019 (income tax). The special rate is reduced from 8% to 6%. For chargeable periods spanning the relevant date, the rate of writing-down allowances will be a hybrid of the rates before and after the change.

32 Temporary increases in annual investment allowance
This clause increases the maximum amount of the annual investment allowance (AIA) to £1,000,000 for a temporary period from 1 January 2019 to 31 December 2020.The rules provide businesses with almost complete freedom to allocate the AIA between different types of expenditure. For example, they may allocate it first against any expenditure on "integral features", qualifying for the lower 6% "special rate" of writing-down allowance.
Schedule 13 contains provision about chargeable periods which straddle 1 January 2019 or 1 January 2021.

33 First-year allowances and first-year tax credits
First-year allowances for items on the Energy Technology List and the Water Technology List will be abolished with effect from April 2020. FYAs are now of little interest to businesses which incur less than £200,000 of qualifying expenditure each year, as they can simply claim the AIA. First-year allowances continue to be of importance for larger businesses.

34 First-year allowance: expenditure on electric vehicle charge points
The first-year allowance for electric charge-points has been until 31 March 2023 for corporation tax and 5 April 2023 for income tax purposes.

35 Qualifying expenditure: buildings, structures and land
This clause amends Part 2 of the Capital Allowances Act 2001 (CAA 2001) to clarify that the exceptions from the exclusions for expenditure on the provision of buildings, structures and alterations to land are not intended to enable allowances to be claimed on costs relating to assets for which the expenditure on the provision is excluded from allowances. The amendment

is treated as always having had effect but it does not apply to claims for capital allowances made before 29 October 2018.

Leases

36 Changes to accounting standards etc
This clause introduces Schedule 14 which implement a package of changes for income tax and corporation tax rules as a result of the adoption of International Financial Reporting Standard 16 (IFRS 16), for all entities which apply International Financial Reporting Standards (IFRS), or Financial Reporting Standard 101 Reduced Disclosure Framework (FRS 101). The legislation takes effect for periods of account commencing on or after 1 January 2019. The main areas of change are: amendments to current legislation that relies on lease accounting definitions; minor amendments to the rules for long funding leases; repeal of legislation that disregarded for tax purposes changes to accounting standards related to leasing, including IFRS 16; and introduction of rules for the spreading of any transitional adjustment recognised upon adoption of IFRS 16.

37 Oil activities: transferable tax history
This clause and Schedule 15 provide a mechanism by which an oil company may transfer a portion of its historic profits, and the associated tax paid on those profits, to another company, on the sale of an oil licence. This will allow the buyer company to claim a repayment of the tax paid in certain circumstances when it comes to decommission the oil field. This clause and schedule will have effect in relation to licence transfers approved after 1 November 2018.

38 Petroleum revenue tax: post-transfer decommissioning expenditure
This clause enables participators in oil fields to obtain petroleum revenue tax (PRT) relief for decommissioning expenditure where that expenditure was either incurred or funded by the previous holder of the interest in the oil field. The clause has effect for transfers of interests that have been given consent by the Oil and Gas Authority (OGA) on or after 1 November 2018.

Miscellaneous reliefs

39 Entrepreneurs' relief
The schedule was subject to debate and change. The government listened to the views of ACCA and other accountancy bodies, resulting in a government-tabled amendment to the bill. The bill as originally introduced was likely to catch a number of entrepreneurs who had alphabet shares and potentially deny them entrepreneurs' relief.

This clause and Schedule 16 introduce various amendments to the rules for entrepreneurs' relief (ER). These are:

- increasing the period of time during which specified conditions must be met in order for ER to be available when assets are disposed of. The period will increase from one year to two years

- introducing two new tests into the definition of a claimant's 'personal company' which applies for ER purposes. Both of the new tests must be met, along with the existing two tests, throughout the specified period in order for relief to be due
- enabling individuals whose shareholding is 'diluted' below the 5% qualifying threshold for entrepreneurs' relief as a result of a new share issue to obtain relief for chargeable gains on the shares up to that time.

  The definition of a 'personal company' was subject to much debate so the revised definition (included in Schedule 16 paragraph 4 (3) 9(c)) states:

"either or both of the following conditions are met–

(i) by virtue of that holding, the individual is beneficially entitled to at least 5% of the profits available for distribution to equity holders and, on a winding up, would be beneficially entitled to at least 5% of assets so available, or

(ii) in the event of a disposal of the whole of the ordinary share capital of the company, the individual would be beneficially entitled to at least 5% of the proceeds."

This second part to the new test means that where a company with alphabet shares is disposed of, then provided the shareholder receives at least 5% of the proceeds, they can qualify for ER, even if they have not received equal dividends.

40 Gift aid etc: restrictions on associated benefits
This clause simplifies the number of thresholds and changes the limits on the value of benefits that can be given to donors without affecting the Gift Aid qualifying status of a donation to a charity. The changes will apply in relation to gifts by individuals and payments by companies made to charities on or after 6 April 2019.The thresholds are as follows:

- Where the amount of the gift by an individual/company does not exceed £100, the benefit restriction is 25% of that amount.
- For gifts exceeding £100, the benefit restriction will be the sum of £25 and 5% of the amount of the excess subject to the overall benefit restriction of £2,500.

41 Charities: exemption for small trades etc
This clause increases the non-primary purpose small trading tax exemption limit for charities. The changes come into effect on or after 1 April 2019 for changes to the Corporation Tax Act and on or after 6 April 2019 for the Income Tax Act.

A charity does not pay tax on profits that it makes from charitable trading that is part of its primary purpose: for example, sale of tickets for a theatrical production staged by a theatre. Where a charity's trading does not relate to its primary purpose – for example, a charity sells Christmas cards to raise additional funds – its profits are also exempt from tax if its turnover is below the small trading tax exemption limits. Two of these are currently set at £5,000 where turnover is under £20,000 and £50,000 where turnover exceeds £200,000. The exemption recognises that, in practice, charities may engage in some small-scale non-primary purpose trading, and means that they do not incur a tax liability on the profits of that trade. This measure will increase the above small trading exemption limits for charities to £8,000 and £80,000 respectively.