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UK TAX DEVELOPMENTS 2013-2014

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The last half of 2013 and the beginning half of 2014 have been dominated by two main themes: the fight against tax avoidance both at the individual and corporate level, and the approach of the general election in May 2015 bringing the end of the coalition government. With less than a year to go for the current government, there is a real sense that there is no support for any significant tax changes, and divisions between the coalition partners are being highlighted as the Conservatives and Liberal Democrats draw apart in preparation for the coming election. In a real sense, the government has run out of steam so far as any tax reforms are concerned.

That being said, the lack of any real tax reform ideas did not stop the production of another massive Finance Act, running to 668 pages in the Queen's Printer's edition, which is an increase on the 634 pages of the 2013 Finance Act but still does not quite top the record held by the 2012 Finance Act of 703 pages. Many of the changes have nil or negligible revenue impact: in fact it is interesting to note from the TIINs (Tax Information and Impact Notes) published with the Finance Bill how many of the changes have a nil or negligible impact.

Whether there is an election pending or not, combating tax avoidance is clearly seen as a vote winner (or, at least, not a vote-loser) by all political parties. The tax world of the last year has been dominated by anti-avoidance measures. First, the Finance Act contains provisions relating to combating tax avoidance by the supply of agency workers, by the use of partnerships, as well as legislation on the issuing of "followers notices" (targeted at situations where HMRC has successfully challenged a tax avoidance scheme, and other taxpayers who have implemented an identical or similar scheme are required to follow the outcome of that litigation), provisions on accelerated payments (where those who have entered into disclosable tax avoidance schemes can be required to pay tax in advance before they appeal), as well as specific legislation on promoters of tax avoidance schemes. Since many schemes are promoted by banks, the Act contains provisions for naming and shaming by the publication of an annual report on the extent to which particular banks sign up to and observe the Code of Practice on Taxation.

Secondly, there has been perhaps more public focus on tax avoidance in the last year than ever before. At one extreme there have been the hearings before the Public Accounts Committee into the tax affairs of major multinationals, as well as the role of major accounting firms, and the promoters of tax schemes. At the other extreme there has been the disclosures of the participation of a number of celebrities in tax avoidance schemes. Newspapers have discovered that the general public is interested in the tax affairs of major celebrities, and the responses of these celebrities draw out the stories for several days or weeks.

Finally, there has been a string of decisions from the Tax Tribunals and from the courts where tax avoidance schemes have been challenged by HMRC, almost always successfully. It seems that counsel for the revenue needs only to describe a case as involving a tax avoidance scheme to ensure victory.

So what does the coming year hold for tax practice in the United Kingdom? While there is probably not much more mileage in the PAC holding hearings, the newspapers seem unlikely to give up their new-found interest in the tax avoidance activities of some celebrities. The run of challenges to tax avoidance schemes brought successfully before the courts by HMRC is likely to continue. At the international level, the BEPS (Base Erosion and Profit Shifting) project at the OECD is timetabled to continue to the end of 2016. There may be renewed focus on the tax affairs of multinationals, particularly those headquartered in the US.

2015 will be an election year in the UK. Whether the government changes or not, this is likely to mean two Finance Acts; a truncated Act passed before the election and containing those provisions that all parties can agree on, and, in all probability, a second

Act after the election. Depending on the outcome of the election, this new Act may or may not signify the introduction of fundamental changes by the incoming government. At present, there is no indication that any of the major parties has any grand plans for tax reform.

At the time of writing this piece, the outcome of the Scottish referendum is still several days off. Nevertheless, the Finance Act 2014 contains provisions for separate rates and administration of income tax in Scotland which will go ahead regardless of the independence vote. The outcome of the general election in 2015 will also determine whether or not there is a referendum on membership of the EU, which will in turn determine how far the future development of UK tax law is impacted by our membership of the Union. The next year or two offer the prospect of a hectic time of change for the UK tax system, whether the government launches into major reforms or not.

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