FINANCE BILL 2016: CLAUSE 5: DIVIDEND NIL-RATE

Briefing for the Public Bill Committee debates on Finance Bill 2016 submitted on 5 July 2016 by ICAEW Tax Faculty

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Internationally recognised as a source of expertise, ICAEW Tax Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter, working in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 145,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.

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PUBLIC BILL COMMITTEE BRIEFING

Dividend nil-rate (Clause5)

- **Measure:** Clause 5, Finance Bill 2016 introduces the dividend nil-rate.

- **Background:** From 6 April 2016 the dividend tax credit will be replaced by a new 0% tax rate on the first £5,000 of dividend income per year. Instead of basic rate tax been deemed to have been paid, the £5,000 nil rate band will be taken into account when determining what rates of tax apply to income and capital gains and UK residents will pay tax on the gross amount over £5,000 of any dividends received, at the following rates:
    - 7.5% on dividend income within the basic rate band
    - 32.5% on dividend income within the higher rate band
    - 38.1% on dividend income within the additional rate band.

- The policy paper published on 29 June 2016 (https://www.gov.uk/government/publications/income-tax-changes-to-dividend-taxation) says that the policy objective of this measure is to "help address the incentive for some people to set up a company and make payments as dividends rather than as wages simply to reduce their tax bill, enabling the government's plan to reduce the rate of Corporation Tax.".

- **Our view:** We believe that this measure should be properly targeted so it affects only those taxpayers who can influence what dividends they receive.

- **Our concerns**: This measure is stated to be aimed at taxpayers who are able to control the amount of remuneration and dividends that they can pay themselves from their private companies. However, it will affect a far wider class of investor. This is because it will not only catch those who are able to choose to pay themselves in dividends instead of salary or wages but also all PAYE taxpayers who have public company investment portfolios – including individuals who successive governments have encouraged to invest in privatization shares.

  Given that even basic rate taxpayers will have to pay tax rather than have it deducted at source, affected PAYE taxpayers will for the first time have to complete and submit a self assessment return. Many such people will need to pay someone to help them complete their return and, owing to the complexity of the new regime, take advice on how much tax to pay. This will impose compliance costs on taxpayers where none presently exist.

- **Our recommendations**: We recommend that the measure should be restricted to dividends from non-publicly listed companies.

FURTHER INFORMATION

As part of our Royal Charter, we have a duty to inform policy in the public interest.
ICAEW offers impartial expert briefing on the Budget, the Finance Bill and ad hoc policy issues for MPs, Peers and parliamentary staff.

To request further information or a briefing from one of our Tax Faculty experts, please contact:
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APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.

2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.

3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.

4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.

5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.

6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.

7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.

8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.

9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.

10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see via http://www.icaew.com/en/about-icaew/what-we-do/technical-releases/tax).