OTS CGT - why you should care (part 1 of 2)

If the Government implements these proposals it could mean 20 times as many employees in Sharesave having to go through the Self-Assessment process!

Okay, I'll admit that opening was bordering on clickbait, just be glad they wouldn't let me use, *"This Yorkshire dad looked into the OTS proposals and you won't believe his findings – number 5 will shock you!!!"*. Now that I've grabbed your attention though let's just back up and step through the details to understand what I really mean.

What is the OTS CGT report and why should I care?

"Public sector net borrowing (PSNB ex) in the first nine months of this financial year (April to December 2020) is estimated to have been £270.8 billion, £212.7 billion more than in the same period last year and the highest public sector borrowing in any April to December period since records began in 1993." (Public sector finances, UK - Office for National Statistics (ons.gov.uk))

Perhaps anticipating the huge cost of the Job Retention Scheme, testing infrastructure, Track & Trace, NHS resourcing, etc. the Chancellor asked the Office of Tax Simplification to review the Capital Gains Tax regime.

On 11 Nov 2020 the OTS published its first report which provides recommendations in response to the request from the Chancellor. Full text can be found here: https://www.gov.uk/government/publications/ots-capital-gains-tax-review-simplifying-by-design

5 of the 11 recommendations could impact employee share plans, specifically **Sharesave (SAYE), EMI** and **Growth Shares.**

A 2nd report on implementation of proposals is due in Q1 2021. Whilst these are currently only recommendations the Chancellor clearly needs to find additional revenue to fund the costs of the Covid19 crisis and so we'll be watching tomorrow's Budget closely for any mention of CGT.

The Good News

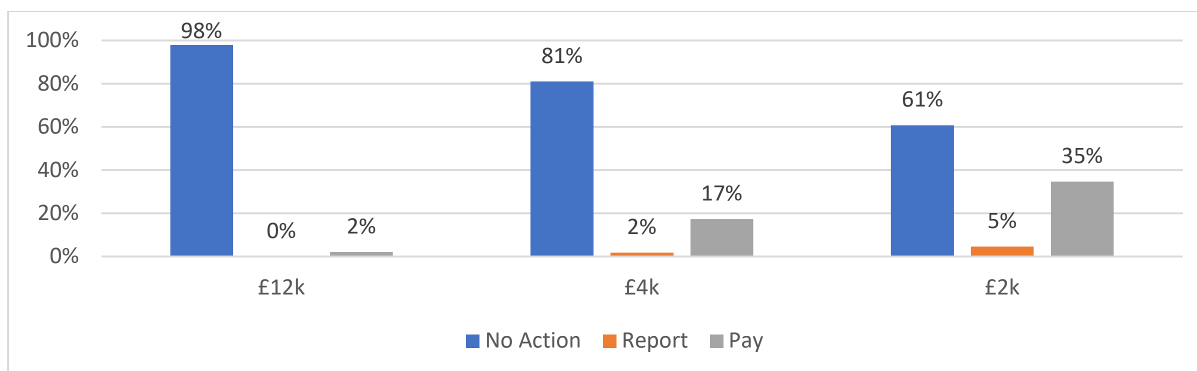
The report says, "This review is focused on individuals' liabilities and does not cover trusts…" (pg 7) so **our understanding is that SIP itself is out of scope** and these changes would only be relevant to participants who transferred shares out of the SIP Trust and then made further gains in value prior to sale.

From industry discussions we believe the report is *not* suggesting actually removing Income Tax Relief but changing the CGT regime so that the amount of CGT employees paid on share plan gains would be much closer to what they would pay under the income tax regime, for example on cash bonuses. **This would mean no issue of potential Employer NICs on Sharesave.**

The awkward 5th recommendation

Of the 5 recommendations mentioned above the one that gives us most concern is Recommendation 5. This involves reducing the annual tax-exempt allowance from £12.3k (2020/21) to a "true de minimis" which it puts somewhere between £2k and £4k.

To assess just how much of a practical impact this could have on Sharesave participants we analysed Sharesave option exercises where we act as administrator in the last complete Tax Year (2019/20). Our findings were striking:



- As you can see, under the 2019/20 Annual Exempt Allowance ("AEA") of £12k just **2%** of participants had to complete self-assessment based on their Sharesave exercise.
- If the AEA had been £4k this percentage would have jumped almost tenfold to **19%.**
- If the AEA had been further reduced to £2k this percentage would double again to **40%.**

This brings us back to my opening claim, based on the sample above we see a twentyfold increase from 2% to 40% in the proportion of employees having to go through the self-assessment process if the recommendation of a "true de minimis" of £2,000 was adopted.

Of course I said *could*, not *would*, this involves some assumptions as detailed below, future market price performance will change the exact percentages and customer behaviour may change in response to allowance changes, nevertheless our broad conclusion is that **implementation of this recommendation would force tens of thousands of UK workers to have to negotiate the self-assessment process for the first time.**

Join me next time as we look at what that could mean for 'UK plc', how plan issuers are feeling about the proposals and what we're doing on behalf of issuers and participants and of course reflect on any more hints revealed in the Chancellor's Budget statement.

Disclaimer: This is our current interpretation based on the report itself and consultation with other industry stakeholders. YBS has no information on how HM Government may choose to respond to the recommendations so all of the above is potentially subject to change. This is being shared for information purposes only. It is not intended as advice.

Assumptions

1. Sample consists of exercises by employees of 71 UK employers between 6th Apr 2019 and 5th April 2020. Because companies rarely have more than one Sharesave grant event per year it is assumed that each exercise within the single tax year is equivalent to a separate underlying employee. Where employees choose to retain shares on exercise the gain on any eventual disposal is unknown. As share prices may rise or fall post-exercise the Market Value on the date of exercise has been used to estimate the gain. This assumes no other sources of Capital Gain for the participants besides Sharesave and no use of the spouse transfer mechanism to mitigate the tax liability.