The purpose of this Note is to consider the impact of the Autumn Budget 2024, identifying the changes made and how those changes specifically impact personal injury claimants[1]. It is also appropriate to briefly comment on the impact of the US election and the return of President Trump to the White House.

Changes and the Potential Impact

The primary changes that are likely to impact personal injury claimants are in respect of:

- Taxation:
  - Income Tax;
  - Capital Gains Tax;
  - Stamp Duty Land Tax; and
  - Inheritance Tax.
- National Insurance.
- The National Minimum Wage.
- Spending on Social Care.

This Note will address each of these changes in turn.

Taxation

As was widely expected, the first full Budget under the new Labour Government introduced a number of changes to the UK tax system. What was not as expected was the magnitude of these changes, with the total increase in tax receipts following the new measures estimated to be £40billion. Another nasty surprise was the timing of the changes, with Capital Gains Tax and Stamp Duty Land Tax on second properties changing immediately rather than at the beginning of the new tax year in April.

Income Tax

Given the Government's promise to leave Income Tax unchanged, it was unsurprising that the rates and allowances in relation to Income Tax will be the same next tax year (from April 2025) as they are currently.

[1] The commentary provided in this Note is based on our own understanding of the changes made to the UK tax system, with specific regard to how those changes may impact upon personal injury claimants. Our analysis has therefore been limited to the areas of change that we feel would be relevant to recipients of personal injury damages and is not intended to cover all areas of the Budget. Where an opinion is provided, it should be taken as such, and nothing in this Note is intended to constitute advice.

The previous Government had intended to leave the tax-free allowances and tax bands fixed until April 2028, and Labour indicated they would retain this measure, increasing the allowance and tax bands from then on.

Although no increases in Income Tax rates will be welcome news to clients, fixing the tax bands has an impact over the longer-term, as there is an expectation that income will increase due to inflation or growth on investments. This means that gradually more income will fall within a taxable environment, or within a tax band which is subject to a higher rate of tax. This process is known as 'fiscal drag' and can be particularly relevant to clients whose income is derived through an investment portfolio (which is expected to grow) or income that typically increases from one year to the next (such as statutory increases to benefit income or property rental income).

Positive changes to allowances and bands from April 2028 will be welcome, however, there are plenty of opportunities between now and then for this to be reassessed, particularly if deficits do not come down or increase further. Some commentators have argued that the impact of increasing Employer's National Insurance (considered later in this Note) along with the combination of other taxes means that it would have been fairer and more transparent to increase Income Tax instead.

Capital Gains Tax

The Budget included increases to the rates of Capital Gains Tax payable on gains in excess of the Annual Exempt Amount (allowance), which will remain at £3,000 for individuals[2]. Tax on gains which fall within the non, starting rate and basic rate Income Tax bands will increase from 10% to 18% (an 80% increase in the applied rate) and tax on gains which fall within the higher and additional rate bands will increase from 20% to 24% (a 20% increase in the applied rate).

The tax on properties other than an individual's primary residence will remain at the 18% and 24% levels.

The new tax rates came into force from 30th October, meaning any gains realised from now on will be subject to the new, higher rates. Any gains realised before 30th October will be taxed at the previous rates.

It is our understanding that the annual Capital Gains Tax allowance can be offset against any gains that fall within the new tax regime in the first instance, where an individual has realised gains both pre and post Budget.

2 Including bare trusts and trusts with a vulnerable person election. Other discretionary trusts will retain the allowance of £1,500.

In other words, it is likely to be beneficial to offset the allowance on gains realised after 30th October rather than before.

The increase in these tax rates was not a surprise, given its omission from the Government's pre-Budget promise to not increase Income Tax, National Insurance and VAT. Capital Gains Tax rates have also been considered historically low for a long period of time.

The increase will be felt more by those who have more modest portfolios and typically realise gains that fall within the basic rate tax band, given the fairly large increase in rate from 10% to 18%. Clients with larger portfolios and higher incomes will be impacted, but the smaller increase from 20% to 24% may be more manageable.

Given the expectation of Capital Gains Tax increases, it is likely that advised clients have been realising gains in recent tax years to make the most of the lower tax rates. Such action will, to some degree, protect them against these changes.

The main impact of these increases in tax rates is that personal injury claimants will have to pay away more of their achieved growth on their investments on capital withdrawn to support their needs. This means that the real and net returns they achieve in the future will fall and the risk of exhausting their capital during life increases.

Whilst such changes may well be taken into account in the current review of the Personal Injury Discount Rate, with the deduction for taxation and investment advice being increased, this will only benefit claimants whose awards are yet to settle.

The reduction to net growth on investments when coupled with other changes that will impact on their costs (see later in this Note), means that there will be greater pressure on the finances of clients who have already settled their claim, with the options being to either:

- Reduce their spending;
- Take more investment risk, with the potential downside consequences; or
- Seek to (further) maximise statutory support.

Some might argue that these increases in Capital Gains Tax justify looking to investment bonds, in order to defer taxation (the taxation on investment bonds is deferred and such bonds are not necessarily tax-free, as can be suggested) into the future.

However, the benefits of such an approach must be carefully considered for each individual, taking into account:

- The additional costs associated with such bonds;
- The risk that Income Tax will increase in the future or Capital Gains Tax will be reduced; and
- The potential that the Government will change the taxation of onshore or offshore investment bonds that would leave the client worse off.

Stamp Duty Land Tax

From 1st April 2025, Stamp Duty Land Tax thresholds will reduce in England and Northern Ireland[3]. The nil rate threshold above which Stamp Duty becomes payable on residential property purchases by individuals who are not First Time Buyers will reduce from £250,000 to £125,000.

The nil rate threshold for First Time Buyers will reduce from £425,000 to £300,000 and the maximum property purchase price that will qualify for First Time Buyers Relief will also reduce from £625,000 to £500,000.

The Stamp Duty Land Tax additional rate for second properties will increase from 3% to 5% from 31st October 2024 onwards.

The increase in tax will be felt by personal injury claimants, both in purchasing their main home and on any potential second property. For those whose claims have yet to settle, this additional cost is likely to be added to their claims. The adverse impact of these changes will have a greater effect on those whose claims have already settled and:

- Need to move home; or
- Wish to invest in residential property.

Many claimants are 'first time buyers', which can provide valuable relief when buying a property. For example, currently buying a £425,000 house as a 'first time buyer' would result in a nil Stamp Duty liability, however buying the same house from 1st April 2025 would result in a liability of £6,250. A first-time buyer would not be able to get any 'first time buyers' relief if the purchase price is above £500,000, however it is not always possible where the client is required to purchase a much larger home in excess of £500,000 in order to meet their individual needs.

It is also not uncommon for personal injury claimants to want to purchase properties to rent out, as part of a suitably diversified investment approach or to support their wider family. This is now less attractive given the increased costs of entry, which is usually not present in other types of investments.

Inheritance Tax

Some changes to the Inheritance Tax regime were announced in the Budget (such as changes to Agricultural and Business Property Relief), but these go beyond the scope of this Note.

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[3] These higher thresholds were announced at the 'mini budget' of September 2022, and the changes here are down to the temporary, higher thresholds lapsing, rather than an active change in this Budget. The higher thresholds will remain in place until 31st March 2025.

The Inheritance Tax "Nil Rate Band" of £325,000 and "Residence Nil Rate Band" of £175,000 will remain unchanged and fixed at this level until 5th April 2030. As a result, 'fiscal drag' will increase the impact of Inheritance Tax on clients' estates.

Furthermore, the Chancellor announced during the Budget that the Government intends to include unused pension funds on death within the deceased's estate for Inheritance Tax purposes from 6th April 2027 onwards. This will impact the estate of clients who have a pension plan that they have not needed or been advised to draw on in order to meet their needs during their lifetime.

These clients are in the minority, as it is often more beneficial to draw-down on the pension plan from age 55 (in order to mitigate taxation and maximise statutory funding into the future). However, for those estates that would otherwise have benefitted from the previous rule, this will simply lead to increased taxation, which is unwelcome especially if Inheritance Tax Planning was not recommended (due to risk, cost or lack of access) or permissible by the Court.

National Insurance

There will be no change to the National Insurance rates or limits for employees or self-employed individuals.

There will, however, be significant changes to National Insurance payments of employers. These changes are as follows and will be implemented from 6th April 2025:

- The earnings threshold for employer National Insurance contributions will be reduced from £9,100 per annum to £5,000 per annum. This means an employer will be liable for paying National Insurance contributions on salaries above £5,000 per annum.
- The rate of National Insurance above the earnings threshold will increase from 13.8% to 15%.
- The Employment Allowance will increase from £5,000 to £10,000 and it will now be available to all companies rather than specifically aimed at only those companies with National Insurance liabilities below £100,000.

The above will mean that smaller employers whose total National Insurance liability is between £5,000 and £10,000 will be better off as a result of the change, however in the main these measures would result in increased costs for a large amount of employers, with this measure expected to raise £25billion of the total £40billion tax increase.

It is likely that personal injury claimants who pay for care, either directly or via an agency, will be impacted by these changes.

For example, a carer over the age of 21 working 40 hours per week on the new National Living Wage (explained further below) would require the employer to pay National Insurance contributions of £3,060 per annum[4]. The previous threshold and rate would have resulted in contributions of £2,249, with the new payment being an increase of £811 per year or 36% per employee.

The increase in cost will be somewhat offset by the increase in the Employment Allowance which helps to reduce the overall National Insurance bill an employer will need to pay, and those individuals employing a small care team may well be better off. Most employers will, however, see a significant increase in their National Insurance liability and it is likely that such increases will simply be passed on directly by care agencies.

These increasing costs of care will impact claimants with both lump sums and periodical payments. A step-up in costs will simply have to be met by claimants with lump sums, with the same implications and options as for the increase in Capital Gains Tax. Claimants with periodical payments will be no better protected from this increase, as ASHE 6115 (the measure of carers' earnings used to increase many of these payments) will not capture the increase in cost, as it will not lead to any increase in earnings. Indeed, some[5] argue that earnings will not rise as fast as a result of these changes.

The broader implications of increasing an employer's costs will be the tightening of margins, which may lead to the increased costs of goods and services generally. Such increases in prices could lead to inflationary pressures. This is one of the reasons for the arguments that increasing Income Tax might have been a fairer solution, as the net overall outcome of increasing an employer's costs are harder to quantify than an increase in personal tax (when the impact to individuals' personal finances may end up being broadly the same).

Whilst higher inflation might mean higher interest rates on deposits for longer, higher interest rates in the UK will limit investment growth and/or increase the risk of further taxation rises in the future.

National Minimum Wage

From April 2025, the National Living Wage will increase to £12.21 per hour for all eligible employees over the age of 21[6]. This is an increase of 0.77p per hour from the previous National Living Wage of £11.44 per annum, or a 6.73% total increase.

4 On the basis of £12.21 per hour 40 hours per week, 52 weeks of the year.

5 See: https://www.bbc.co.uk/news/articles/c4g7x6p865zo

6 The National Minimum Wage for 18-20 year olds will also increase to £10.00 per hour for all eligible workers. The government is also increasing the minimum wages for Under 18s and Apprentices to £7.55 per hour, and the Accommodation Offset rate will increase to £10.66 a day.

Someone working 40 hours per week would see an increase in their gross salary from £23,795 to £25,397[7].

This clearly would seem to be a positive situation for those clients who are currently employed at the National Living Wage. However, research suggests that higher minimum wages can have an adverse impact on the employment of 'vulnerable groups', as there is increased focus on productivity levels by employers.

Indeed, as with the National Insurance increase, there will likely be increased costs for those clients who are employing a care team, as well as higher inflation generally (if these costs are not absorbed and are passed on to consumers).

Even if clients are not hiring carers on the National Living Wage, higher increases in that level creates a concertina effect, which a February 2018 Department for Business, Energy & Industrial Strategy report[8] stated:

> *Employers also reported that the NMW/NLW had led to a concertina effect on rates paid to supervisors and other semi-skilled jobs. This had affected incentives for low skilled workers to seek progression.*

More qualified and experienced staff might also seek higher pay, in order to re-establish earnings recognition for their experience, qualification and skills. These measures are likely to increase the costs of care.

Care England paints a grim picture of adult social care: https://www.careengland.org.uk/an-urgent-call-for-action-to-secure-the-future-of-adult-social-care/ and the impact of the budget: https://personcentredsoftware.com/resources/autumn-budget-2024-what-does-it-mean-for-the-care-industry?utm_source=care-association&utm_medium=referral&utm_campaign=referral+&utm_content=care-enlgand-autumn-budget-2024

They are not alone. The King's Fund has also expressed growing concern: https://www.kingsfund.org.uk/insight-and-analysis/long-reads/autumn-budget-2024-health-and-care

Summary on the Autumn Budget 2024

It is difficult to find anything positive in the Autumn Budget 2024 for personal injury claimants.

Claimants were not 'working people' as defined by the Government and were, therefore, not protected from tax rises.

7 Assuming employed on a full-time contract covering 52 weeks of the year.

8 https://assets.publishing.service.gov.uk/media/5a72fbcced915d0e8e39864d/national-minimum-wage-counterfactual-research.pdf

Our clients did not choose to be in their financial position. They rely on real and net returns from their capital to meet their most important and critical needs; primarily care costs. The consequences of the choices made in the Autumn Budget 2024 are likely to have a greater adverse impact on our clients than on 'the rich'.

Trump Re-election

At this stage it is too early to know what impact the re-election of President Trump will have on personal injury claimants.

Some[9] suggest that high US tariffs on imports will adversely impact UK growth, which in turn could lead to the Government having to increase taxation further in the future to meet fiscal rules. Lower growth and higher taxes will only have a negative impact on our clients.

In this regard, only time will tell.

About Personal Financial Planning

Personal Financial Planning (PFP) is dedicated to providing the highest quality, whole of market, independent financial advice to recipients of personal injury damages.

The team at PFP has been involved in providing expert independent financial advice since 1993. Throughout this period PFP has provided expert financial advice and have been at the forefront of development in areas such as periodical payments, the recovery of damages for accommodation costs, personal injury trusts and bespoke investment planning for personal injury claimants.

PFP acted as expert adviser in all of the important 'indexation' cases (*Thompstone* et al), which were pivotal in the development of earnings-linked periodical payments as a truly viable alternative to a conventional lump sum for severely injured claimants.

Richard Cropper also gave expert evidence at the Court of Appeal in the landmark case of *Swift -v- Carpenter*, which has revolutionised the recovery for additional accommodation needs.

In 2010, when the Lord Chancellor required financial advice in respect of the Discount Rate to be applied in personal injury damages, he retained Richard Cropper. The States of Guernsey did the same in 2024.

In 2015, Richard also gave oral evidence to the Justice Select Committee in respect of the Civil Liabilities Act.

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9 https://www.reuters.com/world/uk/uk-economy-risks-big-hit-under-trump-tariffs-plan-think-tank-says-2024-11-06/

PFP has also advised in some of the largest group litigation actions, from the Alder Hey organ scandal in 2002 to the Grenfell Tower civil settlement in 2024.

PFP is an Employee Ownership Trust (EOT). This means that the controlling interest in PFP is held in trust for the benefit of its employees.