Mapping the manifestos 2017—an overview of tax pledges (part two)

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Tax analysis: Zoe Arnautov, managing associate at Simmons & Simmons LLP, examines the tax pledges in the manifestos of the major parties, and discusses plans to enhance tax transparency, tackle tax avoidance and devolve tax powers.

Original news

Labour Party election manifesto tax plans, LNB News 19/05/2017 48

The Labour Party manifesto, published on 16 May 2017, contains a number of proposals for increased income and corporation taxes, new levies on 'excessive' pay and UK property purchased through offshore structures, as well as an extension of stamp duty reserve tax to cover derivatives. Labour would reinstate the corporation tax small companies rate and the manifesto promises no increases in VAT or employee national insurance contributions (NICs), but is silent on employer NICs.

Conservative Party election manifesto tax plans, LNB News 19/05/2017 46

The Conservative Party manifesto, published on 18 May 2017, gives little detail on tax plans beyond previous announcements, measures likely to be reintroduced in a new Finance Bill, and a commitment to simplify the tax system. A new Conservative government would replace the pensions 'triple lock' with a 'double lock' and introduce a variety of checks on executive pay.

What are the parties' proposals on personal tax rates?

One of the most headline-grabbing measures of the 2015 election was the Conservatives' 'tax lock', covering income tax, Class 1 NICs and VAT. Even if one might question the legal soundness of such a mechanism, the 'tax lock' was later enacted into legislation, limited to the life of the then Parliament. The statutory 'tax lock' does not make a reappearance in the Conservative manifesto, though given the political problems faced by Chancellor Philip Hammond when seeking to increase NICs rates not technically covered by the statutory provisions, the practical distinction between a manifesto promise and statutory lock might be less than expected.

As regards income tax rates, the Conservative manifesto suggests a very much 'as you were' approach, with the personal allowance increasing to £12,500 and higher rate threshold increasing to £50,000, both by 2020.

In contrast, Labour contemplate significant tax rises on higher earners. Labour would reduce the lower threshold for the 45% additional rate to £80,000 and reintroduce a 50% rate for earnings above £123,000. In addition, Labour would seek to introduce an 'excessive pay levy' on employers of individuals earning more than a defined limit and as a percentage of the total compensation above that limit. (Although Labour claim that this will affect employers rather than employees, readers may wonder how the party proposes to ensure that pay is not simply grossed-down to reflect the levy.) However, Labour would guarantee no rises in income tax for those earning below £80,000 a year and no increases in personal NICs.

The Liberal Democrats would increase the basic, higher and additional rates of income tax by 1p, with a commensurate tax increase of 1p on dividend income, which would be ring-fenced to be spent only on NHS and social care services.

What are the parties' proposals on corporate tax rates?

The Conservatives are committed to reducing the corporate tax rate to 17% in 2020 as planned. Both Labour and the Liberal Democrats would reverse recent reductions to some extent. Labour promise to increase the rate to 21% in 2018, 24% in 2019 and 26% in 2020 (with lower rates for small companies of 20% from 2018 and 21% in 2020). The Liberal Democrats would return the rate to 20% (timing unclear).

The strained issue of business rates receives a lot of coverage in all three manifestos. All parties profess their intention to carry out a wide-ranging review of business rates and seek, in some way, to address the problems faced by high-street retailers competing with internet retailers. Both Labour and the Liberal Democrats explicitly contemplate the introduction of a land value tax as an alternative to council tax and business rates.

What do the parties say about VAT and customs duty post-Brexit?

It is perhaps unsurprising given the Conservatives' wider focus on Brexit that their manifesto proclaims an intention to negotiate 'a new deep and special partnership with the EU', which will allow free trade between the UK and the EU's Member States. As part of this agreement, a Conservative government would seek to ensure that there are as few barriers to trade and investment as possible—the reader may assume that in this context VAT and in particular customs duties would be a barrier to trade. There is also a commitment not to increase the rate of VAT.

Labour also promise not to increase the rate of VAT, and go further by renewing their previous pledge not to extend VAT to food, children's clothes, books and newspapers, and public transport fares (which in general would be possible once the UK leaves the EU VAT system).

In addition to stating their aim of remaining in the single market, the Liberal Democrats explicitly state that the Brexit deal must ensure that trade can continue without customs controls at the border.

Are all parties proposing to bring back the provisions that were dropped to get Finance Act 2017 through, such as the corporate interest restriction?

None of the three main parties make any explicit comment on the 'leftover' elements of what was originally in Finance (No 2) Bill 2017. Naturally the reader will assume that a returned Conservative government would implement the corporate interest restriction and the other leftovers as planned, and given the general approach evinced by the Labour and Liberal Democrat manifestos it seems safe to assume that the corporate interest restriction (CIR) would be taken forward by all the main parties (the Labour manifesto refers to the CIR in passing with approval in the context on the anticipated effect on the tax payable by Formula One).

It is perhaps not certain that reform of the substantial shareholdings exemption would be popular with a Labour government given that the party generally seems to assume that any change designed to assist corporate taxpayers will necessarily reduce the tax base.

What do the parties have to say on tax avoidance?

The Labour Party does not limit itself to a few pledges in its manifesto, but dedicates a whole document to the topic of tax compliance, ‘Labour’s Tax Transparency and Enforcement Programme’. Labour promise to carry out an immediate public enquiry into tax avoidance (sic) (evasion?) which appears to be aimed largely at the Panama Papers leak. Most notably from a longer-term perspective, however, Labour promise to introduce a new general anti-avoidance rule (GAAR) that will mandate that any transaction lacking economic substance will be considered a sham and ‘not allowed’ for tax purposes. The Liberal Democrats also promise a more wide-ranging GAAR, unhappy that their 2010 proposal was watered down when in coalition with the Conservatives.

Labour also promise that ‘abusive tax havens’ will be named and sanctioned and tax avoidance will also be disincentivised by legislation to ensure that those involved in tax avoidance are unable to secure public contracts from central government, local government and other public bodies and by requiring existing public contracts to be repatriated from tax havens. Significant extra resources are promised for HMRC to police tax avoidance and evasion.

In addition, Labour’s manifesto targets a number of specific ‘avoidance schemes’. The ‘recognised stock exchange’ status of the stock exchange formerly known as the Channel Islands Stock Exchange (now the International Stock Exchange) in the context of the ‘Quoted Eurobond’ exemption from interest withholding tax is once more deprecated by the Labour manifesto, which refers to it as the ‘Eurobond loophole’. It is unclear whether Labour’s proposal would simply remove the exchange from the list of ‘recognised stock exchanges’ (in which event it is not clear whether grandfathering would apply, or if steps would be taken to avoid unintended consequences arising in relation to other uses of this defined term) or if in fact this would presage a wider review of the quoted Eurobond and other withholding tax exemptions.

Labour would also target the ‘Mayfair tax’ loophole (non-income based carried interest being taxable as capital) and in addition state an intention to clamp down on what is described as the widespread use of advance thin capitalisation agreements (ATCAs). Although it is acknowledged that these were first introduced in 2007, ie under a Labour government, much is made of the claim that the drop in Formula One’s tax bill in the last five years results from interest deductions and use of an ATCA.

Do the parties differ in their approach to tax transparency?

Labour’s manifesto contains various commitments on tax transparency, including perhaps the most eye-catching of all of their announcements, a plan to make the tax returns of large companies and wealthy individuals public. They would also introduce both a register of beneficial owners of companies and a register of the assets and beneficiaries of all trusts.

The Liberal Democrats take a more measured approach to transparency, and would only require large companies to publish details of their tax payments and profits for each country in which they operate. This seems likely to be far less objectionable to companies than the publication of full tax returns, as some companies have concerns that their competitors might derive commercially sensitive information from full tax returns.

The Conservatives promise to take a more proactive approach to transparency and the use of trusts—again, much narrower than the Labour approach.

What are the parties' proposals on international collaboration on tax in a post-EU world?

Labour commit to international cooperation to introduce 'full country-by-country reporting' and propose new minimum standards for Crown Dependencies and Overseas Territories involving public registers of legal and beneficial owners and a requirement to publish accounts (the latter would appear to be a unilateral measure).

The Liberal Democrats promise to 'lead international action to ensure global companies pay fair taxes in the developing countries in which they operate, including tightening anti-tax haven rules'.

How do the parties differ in their approach to devolution of tax powers?

Only the Conservatives have anything explicit to say on this topic, confirming that in Northern Ireland they 'remain committed to the devolution of corporation tax powers', subject to the power-sharing executive demonstrating fiscal stability.

A general statement from Labour that they will operate a 'presumption of devolution' where devolved powers transferred from the EU will go straight to the relevant region or nation might seem to suggest that VAT could become a devolved tax, but this seems unlikely in practice.

Is any party suggesting anything innovative in relation to tax?

Some of Labour's manifesto pledges have a notably retro or even déjà vu feel—putting corporation tax back up to 26%, revisiting the CFC regime (again) and restoring HMRC's status as preferred creditor in a liquidation following a 15-year hiatus. In the case of the proposed GAAR it is explicitly stated that a Labour government would have another crack at an existing policy (the current GAAR). However, this perhaps disguises the more radical nature of some of what Mr Corbyn promises, which would go far beyond anything previously seen in the area of transparency (in particular the proposal to make public the tax returns of large companies and high-net-worth individuals earning over £1m), and obviously also includes the lowering of the additional rate threshold to £80,000 and creation of a new 50% rate for those earning over £123,000.

The Liberal Democrats propose to ring-fence the revenue raised by adding a penny in the pound to income tax (including dividend rates) and dedicate this to the NHS and social care. The reader might observe that many individuals may well be under the erroneous impression that this is already what NICs are for, and indeed there is also a pledge to consult on a dedicated health and care tax which might be based on a reform of NICs. Their manifesto also contemplates introducing a tax on land values and consulting on a move away from profits-based corporation tax to an alternative also taking into account other economic activity indicators, such as sales and turnover (perhaps inspired by the US proposals for a so-called 'border adjustment tax'). (As with Labour, however, there is also an element of nostalgia, with specific commitments to reverse a number of changes introduced by the Conservative government.)

The Conservatives make an unspecific pledge which will no doubt cause many readers concern—to legislate for tougher regulation for tax advisory firms. Given that lawyers and accountants are already operating in highly regulated professions it is unclear how this would apply.

Does the Green Party manifesto include anything interesting on tax?

Perhaps unsurprisingly, tax is not the main focus of the manifesto of the Green Party. However, it does include various high level pledges on tax, including:

- a proposed wealth tax on the top 1% of earners
- resources for more staff at HMRC, a crackdown on 'tax dodging'
- reinstating a higher corporation tax rate for large businesses (rate not specified)
- a phased abolition of caps on employee NICs (unclear what this refers to given the 2% rate is not capped)

A proposal to tax inheritance according to the wealth of the recipient as opposed to the testator seems genuinely innovative, whereas a 'Robin Hood tax on high value transactions in the finance sector' looks a little shop-worn. Like the Liberal Democrats, the Green Party also proposes a trial of a land value tax 'to encourage the use of vacant land and reduce speculation'.

Interviewed by Ioan Marc Jones.

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