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TAX | UNITED KINGDOM | 20 MARCH 2015

UK BUDGET 2015

Pre-election Budgets tend not to reach great heights in terms of excitement and, with the General Election in the UK only a few weeks away, this week's Budget was no exception.

It was (despite being the longest Budget speech given by this Chancellor) largely uneventful, the majority of the proposed changes falling into the "relatively minor" category.

We highlight the more significant aspects - in addition to a number of previously announced measures that were confirmed - below.

CORPORATE / FINANCE

Bank Levy Rate Increase

Further bad news for banks obliged to pay the Bank Levy, which include UK banks, banking groups, building societies, and foreign banking groups operating in the UK through permanent establishments or subsidiaries. With effect from 1 April 2015, the headline rate of the bank levy will be increased from 0.156% to 0.21%. The effect of this is expected to be an additional cost for the banking industry of £900m a year.

This increase in rate comes on top of the previously announced bank-specific restriction on the carrying forward of reliefs, and the proposed disallowance of deductions for compensation payments to customers.

Corporate Tax Loss "Refresh" Prevention

The Budget announced the introduction of legislation which will prevent companies from obtaining a tax advantage by entering arrangements to convert brought-forward reliefs into a more versatile form (by way of example, the general position being that carried-forward losses are available for set-off against profits of the same trade only).

The measure covers carried-forward corporation tax trading losses, non-trading loan relationship deficits and management expenses.

The purported target of the rules is limited to arrangements of a tax avoidance nature, although the test set out in the draft legislation is unfortunately subjective in nature. In addition, these rules will only apply where the anticipated value of the tax advantage is greater than any other expected economic value of the arrangement.

Deductible Vat Relating to Foreign Branches

The Budget announced the amendment of the VAT regime to exclude supplies made by foreign branches when calculating how much VAT on overhead costs partly-exempt businesses can reclaim in the UK (targeting “over-allocation” of overhead costs to foreign branches).

The amendment brings the UK into line with recent European Union case law developments and is likely to affect the banking and insurance industry in particular, with regard to the amount of incurred VAT that financial institutions will be able to recover.

INDIVIDUAL TAXATION

Entrepreneurs’ Relief

Two key restrictions on the availability of entrepreneurs’ relief (which reduces the effective rate of capital gains tax from 28% to 10% in respect of the first £10m of qualifying capital gains realised by an individual during his or her lifetime) were announced.

Legislation will be introduced in Finance Bill 2015 to prevent entrepreneurs' relief applying to capital gains on disposals of personal assets used in a business unless they are associated with a significant material disposal.

Previously, there was no minimum requirement as to the size of withdrawal; a requirement for a significant material disposal will now require a disposal of at least a 5% shareholding in the company or of at least a 5% share in the assets of the partnership carrying on the business.

This change will affect disposals on or after the date of the Budget (18 March 2015).

In addition, legislation will be introduced to counter what was previously a commonly used technique which took advantage of the rule that a trading company could include a company which, despite not having its own trade, held at least a 10% stake in another company which did have a trade.

This enabled individuals, each owning at least 5% of shares in a management company with no trade of its own that owned as little as 10% in a trading company, to qualify for the relief.

This rule has now been repealed and the company itself must either be a trading company or the holding company of a trading group.

Venture Capital Schemes

Various changes are proposed to the conditions that must be satisfied for companies to benefit from the various UK venture capital schemes.

Among these will be a cap of £15m on the total investment which may be received under the Seed Enterprise Investment Scheme (SEIS), Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCTs) (increasing to £20m for “knowledge-intensive” companies).

The government will also increase the employee limit for knowledge-intensive companies, from 249 to 499.

And, with effect from 6 April 2015, the requirement that 70% of funds raised under the SEIS money must be spent before funding can be raised via EIS / VCT is to be dropped.

AS PREVIOUSLY ANNOUNCED…..

The introduction of a number of previously announced measures was confirmed in the Budget. The following is a selection of the most significant.

Exemption from Withholding Tax for Private Placements

A new exemption from UK withholding tax on interest will be introduced in relation to qualifying private placements, the Government's aim being to encourage investment in certain areas of business and infrastructure projects.

Very broadly the conditions require there to be unlisted securities which are issued by non-bank trading companies, of more than 3 years' duration, with a minimum value of £10m and a maximum of £300m. This is likely to be of significant assistance to UK corporates even where a double tax treaty may otherwise have provided relief, since claims for exemption under treaties can have timing implications and can require various conditions to be satisfied to secure their benefit.

Diverted Profits Tax

The Budget confirmed the introduction of the new tax on diverted profits from 1 April 2015 (it had been hoped by many that the commencement date of this new tax would be pushed back).

The thrust of the new tax is the counteraction of arrangements perceived as diverting profits from the UK, imposing a 25% rate of taxation (thus 5% higher than the headline rate of corporation tax applying from 1 April 2015).

Broadly speaking two types of scenario are targeted: where a non-UK company supplies goods or services into the UK and avoids the creation of a UK permanent establishment, the effect being a reduction in tax; and the situation where a UK company enters into a cross-border transaction lacking economic substance, and as a result UK profits are reduced.

Country-by-Country Reporting

The Budget also confirmed the introduction of legislation for the UK to introduce country-by-country reporting. The legislation will require multinational enterprises to provide high-level information on their global allocation of profits and taxes paid in the countries in which they operate.

Legislation to allow the government to introduce this measure will be included in Finance Bill 2015, and the new disclosures will come in with effect from accounting periods beginning on or after 1 January 2016.

Investment Managers - Disguised Fee Income

From 6 April 2015, all sums received by investment fund managers for their services are intended to be charged to income tax.

The measure is aimed only at managers who have entered into arrangements involving partnerships or other transparent vehicles, but is intended to exclude sums linked to performance (carried interest) or returns which are exclusively from investments by partners.

Following consultation, the legislation has been revised with the stated aim of reflecting industry practice on performance-related returns more closely, and so publication of the draft Finance Bill is keenly awaited.

Capital Gains Tax for Non-UK Residents Disposing of UK Residential Property

The Budget confirmed that from 6 April 2015 non-UK resident individuals, trusts, personal representatives and narrowly-controlled companies will be subject to Capital Gains Tax on gains accrued following the disposal of UK residential property. Non-resident individuals and companies will be subject to the same rates as their UK resident equivalents.

Remittance Basis Charge to Increase

The Budget confirmed that from April 2015, the annual remittance basis charge for those who are UK resident but non-UK domiciled for 12 out of 14 years will increase from £50,000 to £60,000.

In addition, a new band has been introduced for those who have been resident in the UK for the last 17 out of 20 years. Individuals in this category will have to pay a charge of £90,000 per annum.

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