UK Tax

Transactions Advisory Structuring

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Ship on course but choppy waters abound!

UK Budget 2015: 10 key measures impacting business

Before the Budget was announced today, there was natural apprehension that, given the impending general election, the Chancellor would pander to the electorate and sail off course from this Government's carefully navigated path over the life of this parliament of making Britain the most attractive corporate tax jurisdiction in the G-20. Thankfully, the Chancellor has maintained a steady course focussing on stability and certainty (largely) with a sprinkling of inevitable populist measures focussing on savers, pensioners and aspirant home owners.

The message of "Britain is open for business" remains the core theme of this Government's corporate tax policy. This is tempered by the inevitable raft of anti-avoidance measures introduced over the course of this parliament which caters to the emerging popular notion that "everyone should pay their fair share of taxes", whatever that means!

Outlined below is our compilation of 10 key measures impacting business emerging from today's Budget statement.

1. **Rate of Corporation Tax**: As widely announced, the rate of corporation tax will be 20% with effect from 1 April 2015. This is eye-catchingly low by any standards and makes the UK very competitive in headline corporation tax terms. Combined with the dividend exemption rules, the substantial shareholding exemption, no withholding tax on dividends, generous interest deduction rules and London as one of the financial capitals of the world, businesses now view the UK as a serious holding company jurisdiction in Europe.

2. **Tax cuts for Oil & Gas**: The Budget provides welcome relief to the beleaguered oil and gas industry with announcements that the Government will introduce a package of measures which substantially reduce oil and gas taxes to improve competitiveness in the North Sea. This package includes a new investment allowance to reduce the amount of adjusted ring fence profits subject to the supplementary charge and reduces the rate of supplementary charge payable in respect of profits from oil and gas production in the UK and UK Continental Shelf from 32% to 20%. Additionally, the measures reduce the rate of Petroleum Revenue Tax from 50% to 35%.

3. **New exemption from withholding tax on private placements**: Aimed at incentivising the UK's private placement market, the new exemption from UK withholding tax will apply to interest payments made in connection with qualifying private placements. We originally advised HM Treasury and HM Revenue & Customs in their crafting of this measure. This new legislation is targeted at long-term unlisted debt. Investors will be pleased to hear that the draft primary legislation has been amended to remove the requirement for debt issued under such private placements to have a minimum term of three years. However, the definition of "private placement" will need to be watched closely. This new legislation when it takes effect (from royal assent) will no doubt kick-start the UK private placement market.

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4. **Capital gains tax for non-UK residents disposing of UK residential property:** High-value residential real estate has been the subject of a raft of recent tax measures which sought to level the playing field whereby non-UK tax residents holding UK residential real estate (either directly or through corporate vehicles) were sought to be brought within the charge to UK capital gains tax. In addition to various anti-avoidance measures which has already been introduced and which are already in force, from 6 April 2015, non-UK tax residents (including individuals, trusts, personal representatives and narrowly controlled companies) will be subject to UK capital gains tax (at the same rate as UK capital gains taxpayers) on gains arising from the sale of UK residential real estate after that date.

5. **Bank Levy**: The Government has indicated that with banks returning to profitability, banks should assume a heavier contribution that reflects the risks they pose to the UK economy. As a result, from 1 April 2015, the bank levy will be increased from 0.156% to 0.210%. This is expected to raise £4.3bn by 2019-2020. The bank levy is an annual tax on the value of all the debts of UK banks (subject to certain specified exceptions). This move has been criticised by the UK banking industry as placing an unnecessary burden on UK banks (which are taxed on their worldwide balance sheet) whilst foreign banks in the UK are only taxed on UK liabilities.

6. **Disguised investment management fees**: In the Autumn Statement 2014 the Government announced draft legislation to ensure that "disguised fees" arising to individuals from collective investment schemes are subject to income tax and National Insurance Contributions. Today's Budget confirms that these measures will be introduced with effect from 6 April 2015 although there is no real indication whether the legislation (to be introduced in the Finance Bill 2015) will contain any substantial changes from the draft legislation which was announced in the Autumn Statement last year. The draft legislation is designed to target individuals involved in investment management for a private equity funds or other investment funds. These individuals will be affected if they receive what are, in substance, management fees that are "untaxed", with the meaning of "untaxed" being that the fee is not charged as employment income or trading income. The definition of "management fees" is, in the draft legislation drafted extremely widely and may have unintended consequences. The narrow definition of "carried interest" means many returns by funds will fall into the definition of "management fees". Going forward, private equity funds and other investment funds will need to carefully consider the impact of these provisions, and may need to reconsider how investment management income is made to individuals. It should also be noted that targeted anti-avoidance rules apply to these measures, directed at any arrangements which have a main purpose of avoiding these rules.

7. **Entrepreneur's relief**: Entrepreneurs' relief is an often used relief which reduces to 10%. the rate of capital gains tax on the disposal of, inter alia, shares and securities by individuals One condition for the relief is that the individual in question holds broadly 5% or more shares in a company that is a "trading company or the holding company of a trading group". This condition has been satisfied to date in circumstances where individuals hold 5% or more in a non-trading feeder vehicle (e.g. a management incentive company) which in turn holds less than 5% of shares in the underlying business. The Chancellor has announced that with immediate effect, such arrangements are not likely to qualify for entrepreneurs' relief in the absence of the management company itself being a trading company. There is very little detail in the measure announced today and we will have to wait for the Finance Bill next week to determine its precise scope and application.

8. **Review of loan relationships and derivative contracts legislation**: There has been a longstanding desire to update and simplify legislation on corporate debt and derivative contracts and ensure greater synergy between commercial accounting profits and taxation. This review has been announced in this Budget. As stated in the Autumn Statement, the Budget has also announced that a new relief for companies in financial distress and new rules to protect the regime against tax avoidance will also be introduced. The precise scope and application of this new relief can be ascertained from the final legislation which is expected next week.

9. **Capturing information and automatic information exchange**: The UK Government's intentions to transform international tax transparency and tackle offshore evasion have been well publicised and it was announced today that regulations will be laid shortly giving effect to the UK's agreement to exchange information on bank accounts automatically every year with other countries. New regulations creating due diligence and reporting obligations for UK financial institutions (which include companies, trusts and partnerships but exclude individuals) and taking effect from 1 January 2016 will implement the updated EU Directive on Administrative Co-operation to improve international tax compliance (which implements the Common Reporting Standard (CRS) on automatic exchange of information within the EU) and the UK's CRS obligations under Competent Authority Agreements with non-EU jurisdictions (specifically agreements with the Isle of Man, Jersey, Guernsey and Gibraltar which impose obligations on UK financial institutions to report financial account information to HMRC for onward transmission to those territories). In a further step towards information transparency and continuing the theme that "knowledge is power", the UK Government will introduce legislation in Finance Bill 2015 that gives the UK the power to implement the OECD model for country-by-country reporting, requiring multinational enterprises to provide high level information to HMRC on their global allocation of profits and taxes paid, as well as indicators of economic activity in any given country.

10. **Diverted Profits Tax**: We have obviously saved the best (or worst depending on your point of view) for last. The much maligned Diverted Profits Tax (DPT) was announced in the Autumn Statement with great haste by the UK Government to target what it called artificial diversion of profits from the UK by global businesses. This announcement was surprising given that the Prime Minister had previously championed the G20/OECD BEPS initiatives, one aspect of which covered this precise area. The draft DPT legislation which was published in December 2014 was badly worded and appeared to rely heavily on legislation by HMRC guidance. Although the Budget today announced that this measure will take effect from 1 April 2015, following representations from industry and stakeholders (including ourselves), changes to (and narrowing of) the legislation have been proposed which will hopefully provide clarity and remove some uncertainty. This measure is being watched closely by investors and it is hoped that the legislation when published next week will provide the much needed reassurance that the UK does indeed remain open for business.