

Dorsey London Tax Update

9 December 2009

Pre-Budget Report Update

The Pre-Budget Report was delivered today and contains a number of features of interest. Unfortunately, several of the announcements were not accompanied by draft legislation.

Stamp Duty Reserve Tax

The Government will shortly publish draft legislation aimed at preventing the potential avoidance of SDRT said to occur when UK shares are routed through EU clearance services or depository banks before being on-sold to non-EU markets. This seems to be in response to the case *HSBC Holdings Plc and Vidacos Nominees Ltd v Commissioners For HMRC* (ECJ Case C 569-07), in which the 1.5% SDRT on the issue of shares was found to be discriminatory. HMRC will no longer seek to apply that tax, but will instead remove the exemption in relation to subsequent transfers between EU clearance services and depository receipt systems.

The measures will affect transactions conducted on or after 1 October 2009.

CFC Reform Update

The Chancellor announced that the Government will publish documents outlining the proposed reform to the Controlled Foreign Company regime early next year, followed by a consultation period.

Taxation of Foreign Branches

Similarly, consultation with business will be undertaken early next year in relation to the exemption of Foreign Branch profits from liability to UK tax.

Apportionment Rules for Life Insurance Companies

The Government is also publishing draft legislation later today which alters the current apportionment rules for life insurance companies. It is effective for accounting periods beginning on or after 9 December 2009, and will affect companies carrying out life insurance business who defer recognition of the profits of non-profit fund business.

It is intended that these changes will tax deferred profits at the appropriate effective tax rate when they accrue, which would otherwise not have been taxed when the non-profit business is reclassified for tax purposes.

Changes to Interest Relief - Worldwide Debt Cap

The Government has also announced further changes to the Worldwide Debt Cap interest relief rules, which come into effect from 1 January 2010. The changes announced today appear to be largely aimed at eliminating inconsistencies which arise as a result of differing intra-group accounting periods and accounting practices.

Contacts

- Michael Anderson
- Kelly Coutinho
- Gaynor Dunmall
- Paul Farmer
- Philippe Freund
- Savina Kanagasabay
- Alison Last
- Nathan Simmons
- Simon Whitehead

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Paul Farmer named **Tax Lawyer of the Year 2006** by Lexis Nexis

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Index-Linked Gilts

The Government will publish draft legislation later today outlining anti-avoidance measures aimed at corporate groups utilising Index-Linked Gilts to create tax losses without exposure to underlying economic risk. It is intended this measure will bring the inflationary return of the ILG to account where the company or group has hedged its exposure to that gain.

Patent Box – New Corporation Tax Relief

Also of interest is the announcement that income from patents will be taxed at a lower rate (10%) from April 2013. The Government will release additional details of this scheme in time for inclusion in the Finance Bill 2011. It will apply to patents granted after the legislation is passed.

End of VAT Holiday

As also expected, the VAT rate will increase to 17.5% from 1 January 2010, ending the VAT “holiday” announced in the last pre-budget report. No other changes were made to the VAT system.

Company Tax Relief – Small Business

The increase in the corporation tax rate applicable to small companies (of 1% to 22%) was deferred for a further year.

Bank Payroll Tax

The Chancellor announced a one-off levy of 50% on discretionary bonuses in excess of £25,000 awarded to bank and building society employees from today to 5 April 2010. The levy is payable by the employer.

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