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International Tax

United Kingdom Tax Alert

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2014 budget announced

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The Chancellor of the Exchequer delivered the UK budget for 2014 on 19 March 2014. The UK economy has emerged rapidly from recession over the previous 12 months and the Chancellor highlighted that this is a budget that is intended to promote further growth and investment. At the same time, the Chancellor reaffirmed his commitment to tight fiscal control to ensure that this success can be sustained.

The 2014 budget targets a number of key areas relevant for foreign multinational groups investing into the UK: support for the manufacturing sector by way of investment relief, extension of research and development (R&D) relief for small and medium-sized enterprises (SMEs) and additional government financing to promote exports.

Whilst there was no specific reference to the OECD's Base Erosion and Profit Shifting (BEPS) project in the budget statement itself, the UK government has released a position paper that sets out the UK's priorities for the project's ongoing work streams. This confirms the government's commitment to the project through 2014 and 2015, and to implement appropriate changes to the UK tax code "as soon as possible." Importantly, the note re-affirms the UK's commitment to seek international agreement on changes, but it does warn of "supplementary rules to tackle specific issues raised by digitization if progress on updating the existing international framework fails to materialize."

For detailed coverage and comment on the budget, visit Deloitte's dedicated website at **www.ukbudget.com.**

Business tax

Corporate tax rate: The Chancellor confirmed that the headline UK tax rate will fall to 21% from 1 April 2014 and then fall again to 20% from 1 April 2015. Both measures have been enacted as part of Finance Act 2013 and, therefore, already should be reflected in relevant companies' financial statements.

Promoting investment: The Chancellor made a number of announcements intended to promote investment in the UK:

- The Annual Investment Allowance (AIA) allows for immediate tax relief on qualifying capital spend. A temporary increase in the AIA from GPB 25,000 to GPB 250,000 was due to expire on 31 December 2014. The

Chancellor has extended this relief to 31 December 2015 and increased the allowance to GPB 500,000, after which it will fall back to GPB 25,000.

- There were a number of specific announcements in respect of enhanced capital allowances under which relief is given at 100%. There is a broadening of the range of assets that qualify for relief, and an extension to 2020 for enhanced capital allowances within specific enterprise zones to promote additional capital investment in these regions.
- Loss-making SMEs carrying on qualifying R&D activities will be entitled to a cash credit equivalent to 14.5% of their current year tax loss from 1 April 2014, up from the current credit of 11%.
- To provide competitive financing to help UK companies win contracts and expand overseas, the government is overhauling the UK export finance's direct lending program, doubling the available funding to GPB 3 billion and cutting interest rates to their lowest available levels.
- The Chancellor has increased the funding available for UK Trade and Investment, the government body charged with promoting UK exports and facilitating inward investment into the UK.
- As announced at Autumn Statement 2013, the Chancellor confirmed that film tax relief will be available at 25% on the first GPB 20 million of qualifying production expenditure, and 20% thereafter, for small and large budget films from April 2014. The government will reduce the minimum UK expenditure requirement from 25% to 10% and will modernize the cultural test.
- The Chancellor announced the introduction of a new corporation tax relief for theatrical productions and touring theatrical productions. The government will consult on the design of the relief.

Anti-avoidance

Consistent with recent budgets, the Chancellor announced a number of anti-avoidance measures:

- The 2013 Autumn Statement included a provision to deny deductions for disguised distribution arrangements structured by way of a derivative contract whereby a UK company would pay over all or a significant proportion of its profits to another group company (typically non-UK) and thereby avoid a UK liability on those profits. These provisions apply where a tax avoidance motive is evident. These measures were effective from 5 December 2013. An additional measure announced on 19 March 2014 complements this provision and targets transactions that achieve a profit transfer using a mechanism other than a derivative contract. This measure applies to profit transfers made on or after 19 March. A tax avoidance motive will be required for this measure to have effect.
- The UK has introduced the Disclosure of Tax Avoidance Scheme (DOTAS) provisions and General Anti Avoidance Rule (GAAR) in recent years. As previously announced, the Chancellor has sought to nullify any cash flow advantage enjoyed by a taxpayer that has entered into arrangements associated with either DOTAS or the GAAR by requiring an upfront payment of the tax associated with the disputed scheme. This measure will be effective from the day Finance Bill 2014 receives Royal Assent (typically mid-July), and will apply to all cases where there is an

open enquiry or open appeal on or after that date. The Chancellor also confirmed that more stringent rules will be introduced in Finance Bill 2014 in respect of "high-risk promoters" of tax avoidance schemes.

- Measures also have been confirmed under which taxpayers that have entered in to arrangements that have been defeated in the courts may be issued payment notices by the UK tax authorities to pay the disputed tax at that point. The taxpayer will risk penalties and interest on the disputed tax if it is not paid. These provisions typically will apply in relation to widely marketed schemes. This measure will be effective from the day Finance Bill 2014 receives Royal Assent.
- The Chancellor restated the government's commitment to modernize the tax treatment of corporate debt and derivative contracts with the intention of introducing significant re-write of the existing law in Finance Bill 2015. In the meantime, a couple of measures will be included in Finance Bill 2014, effective 1 April 2014. One of these addresses particular issues that have been identified in relation to the tax treatment of the transfer of corporate debt derivative contract between group companies where the transferee then leaves the group within six years of the transfer.

Employment taxes

The Chancellor confirmed that the tax-free personal allowance will increase to GBP 10,000 from 6 April 2014, as previously announced. In addition, the Chancellor announced a further increase in this allowance to GBP 10,500 from 6 April 2015, as well as raising the threshold at which the 40% rate of income tax applies. These changes will have a knock-on impact on the national insurance contributions due from both employers and employees. Additionally, an employment allowance of GBP 2,000 is available to employers from 1 April 2014 to further boost job creation.

Over the coming months, the government will consult on a number of recommendations made by the Office of Tax Simplification. Each of the recommendations has the potential to simplify the taxation of employee expenses and benefits from a tax administration perspective.

Employment share schemes

The government has confirmed that it will delay the introduction of new rules for employment-related securities held by internationally mobile employees until April 2015. However, contrary to the government's original intention, the new rules will apply to all shares vesting and options exercised on or after this date. Thus, employers may wish to consider the impact of the above on employees and on costs where share awards are subject to tax equalization (e.g. for internationally mobile employees). Employers also may wish to consider what communications may be appropriate in the event employees with existing awards have expectations regarding the UK tax treatment of the award where this may be impacted by this announcement.

Dual contract arrangements

The government has confirmed that legislation to target the "artificial use of dual contracts by non-domiciles" will be introduced in Finance Bill 2014 to take effect from 6 April 2014, as planned. Where the new legislation applies, remuneration received under the non-UK contract will be taxed on the "arising" basis, unless the

arrangements fall outside of widely drawn parameters. However, the draft legislation issued on 16 January 2014 will be amended to prevent charges arising on dual contracts that are not motivated by tax avoidance. Amendments will be made to:

- Prevent charges arising on 'nominal directorships', where the individual owns less than a 5% shareholding in his/her employer;
- Clarify that an income tax charge cannot arise on income related to employment duties performed in tax years before the 2014/15 tax year;
- Take into account employments held for legal/regulatory reasons; and
- Reduce the threshold in the comparative tax rate test from 75% to 65% of the UK additional rate (the UK additional rate is currently 45%).

Employers that employ individuals under dual (or multiple) contract arrangements should welcome the government's confirmation that the changes outlined above will be made to the draft legislation. However, they still may wish to consider how the proposed legislation impacts them and their employees in order to decide whether any changes to employment arrangements should be made going forward.

Stamp duty

A further extension has been announced to extend the 15% rate of stamp duty land tax that currently applies to residential properties worth GBP 2 million held by companies, partnerships with companies as members or collective investment schemes. The key point from the budget announcement is that the 15% rate will apply to properties worth GBP 500,000, effective from 20 March 2014. The existing GBP 2 million threshold will continue to apply to contracts entered into before 20 March 2014.

Capital gains tax on nonresidents

The Chancellor confirmed that legislation will be introduced from April 2015 to tax nonresidents on future gains made in respect of disposals of UK residential property, as previously announced in the Autumn Statement 2013. The government will consult with stakeholders in the next few months.

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