Deloitte.
デロイト トーマツ

Global Tax Update

United Kingdom

Deloitte Tohmatsu Tax Co.

July 2017

1. Finance Bill to be published after summer recess; draft updated legislation published

The Government has confirmed that a new Finance Bill will be introduced “as soon as possible after the summer recess”, reintroducing changes to tax legislation that were withdrawn from the previous Finance Bill (now Finance Act 2017) as a result of the calling of the general election. The Commons is due to break for its summer recess on 20 July, returning on 5 September. See http://deloi.tt/2udo3Te.

Policy papers containing updated legislation to be included in the next Finance Bill were published on 13 July. Mel Stride, the Financial Secretary to the Treasury, provided the following background to these papers: "The Finance Bill to be introduced will legislate for policies that have already been announced. In the case of some provisions that will apply from a time before the Bill is introduced, technical adjustments and additions to the versions contained in the March Bill will be made on introduction to ensure that they function as intended. To maximise certainty about the exact provisions that will apply, the Government is today publishing updated draft provisions.”

The key corporate tax papers are those covering:

- The corporate interest restriction. This legislation will come into effect from 1 April 2017.
- The carry forward of corporate tax losses. These rules will also come into effect from 1 April 2017
- Changes to the hybrid rules. including the removal of local taxes from the definition of overseas taxes that can be taken into account when determining whether there is a mismatch from 13 July 2017.

Updated papers were also published in respect of the substantial shareholding exemption; employment income provided through third parties; inheritance tax on overseas property representing UK residential property; and deemed domicile rules for income tax and capital gains tax. See http://deloi.tt/2udEQ8H.

A list of provisions that will apply from the start of the 2017/18 tax year, or any other point before the introduction of the Bill, has also been published. See http://deloi.tt/2ummsKH.

2. Coin-A-Drink: VAT repayments and interest held taxable: Upper Tribunal

The Upper Tribunal has dismissed the taxpayer's appeal in the case of Coin-A-Drink, which concerned the taxability of VAT repayments and associated simple interest. The appeal was pursued on the basis of EU law arguments that were not put forward in the Shop Direct case. The taxpayer argued that, in the light of EU law, the VAT repayment and interest concerned should be characterised as falling due under the English law of restitution. The First-tier Tribunal held that the domestic law of restitution did not entitle the taxpayer to relief from the corporation tax charge on the VAT repayment, and reached the same conclusion in relation to the interest payment. The Upper Tribunal has now agreed. See http://deloi.tt/2qFjWyi

3. Introduction of Making Tax Digital deferred

In the same statement, the Government confirmed a change in the timetable for the implementation of the Making Tax Digital (MTD) programme. Businesses above the VAT registration threshold will not be mandated to use the MTD system until April 2019, and then only to meet VAT-related MTD obligations. The statement states that the Government “will not widen the scope of MTD beyond VAT before the system has been shown to work well, and not before April 2020 at the earliest”. See http://deloi.tt/2uVpNhn.

4. HMRC guidance on non-statutory clearances

HMRC have updated their guidance on non-statutory clearances. This now states that 'HMRC won't give clearances or advice in respect of the application of the 'settlements legislation' in Chapter 5 Part 5 Income Tax (Trading and Other Income) Act 2005 or the tax consequences of executing non-charitable trust deeds or settlements. See http://deloi.tt/2aATqOE.

5. The Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act: Royal Assent

The Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Bill, which was introduced into the National Assembly for Wales on 12 September 2016, received Royal Assent on 24 May 2017. Its purpose is to establish a new tax on land transactions to replace Stamp Duty Land Tax (SDLT), as well as measures to tackle devolved tax avoidance. SDLT is expected to cease to apply in Wales from April 2018. Decisions on tax rates and bands will be made closer to April 2018. In common with Scotland, a general anti-avoidance rule (GAAR) will enable the Welsh Revenue Authority (WRA) to recover any devolved tax that has been avoided as a result of an 'artificial' tax avoidance arrangement. As an alternative to the GAAR Advisory Panel, the WRA will seek expert advice where appropriate. See http://deloi.tt/2qZpsuR

6. VAT: Paper Consult*:* input tax on supplies from 'inactive' Romanian traders: Advocate General

Romania lists traders as 'inactive' if they fail to file VAT returns for 6 months, or can't be found at their registered address, and any customers purchasing goods from inactive traders are not entitled to recover input tax. The system is designed to discourage trading with companies that might not account for output tax properly, but in the opinion of AG Mengozzi, it is not permissible. Although it is reasonably straightforward for customers to check the list, it creates an irrefutable presumption that the supplier is involved in tax evasion (the only basis for denying input tax recovery, if the paperwork is otherwise in order). That goes beyond what is necessary to ensure the correct collection of VAT and prevent tax evasion. Romania is concerned that significant claims (totalling 0.5% of Romanian GDP) may have to be paid out if the court follows the AG's Opinion. See http://deloi.tt/2rrstC7

7. VAT: Di Maura: Italian bad debt relief and the insolvency condition: Advocate General

In October 2016, the Court of Appeal confirmed in GMAC that bad debt relief could not be restricted to occasions when insolvency proceedings had taken place. Because of domestic time limits, this decision about the 'insolvency condition' has had limited impact in the UK. However, Di Maura shows that it remains a relevant issue in other Member States. In AG Juliane Kokott's Opinion, the principle of neutrality means that a "trader, as tax collector on behalf of the state, is fundamentally to be relieved of the final VAT burden". Financing VAT for several years while unsuccessfully seeking payment in insolvency proceedings infringes this neutrality. Therefore, a Member State has only a limited ability to derogate from the general principle that VAT should be charged on the amount actually paid. Member States should not prevent correction of the taxable amount, but should only defer it; nor should they delay an adjustment until non-payment becomes a 'near certainty'. They may be entitled to demand appropriate evidence that non-payment is likely, or might (as the UK now does) assume that payment will not be made once six months have elapsed. The requirement to conclude insolvency proceedings, however, owing to their duration and the fact that the taxable person has little influence on them, is disproportionate. See http://deloi.tt/2sarvNR

Newsletter Archives

To see past newsletters, please visit our website.
www.deloitte.com/jp/tax/nl/eu

Contacts

Deloitte LLP (London)
Yuki Konii, Partner ykonii@deloitte.co.uk
Hiro Hidaka, Director hhidaka@deloitte.co.uk

Issued by

Deloitte Tohmatsu Tax Co.
Tokyo Office
Shin-Tokyo Building 5F, 3-3-1 Marunouchi, Chiyoda-ku, Tokyo 100-8305, Japan
Tel: +81 3 6213 3800
email: tax.cs@tohmatsu.co.jp
Corporate Info.: www.deloitte.com/jp/en/tax
Tax Services: www.deloitte.com/jp/tax/s/en