

Global Tax Update

United Kingdom

Deloitte Tohmatsu Tax Co.

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1. Institute for Fiscal Studies general election briefing note on tax revenues

The Institute for Fiscal Studies (IFS) has published a briefing note providing background material for the upcoming general election on how much UK public revenue is currently raised from different taxes, how this has changed since 2010, and what challenges will be faced by a future government. The IFS expects income tax, NICs and VAT will continue to be the 'workhorse taxes', raising about two-thirds of revenues, but it notes that there have been important changes in the relative composition of tax revenues since 2010; for example, income tax is due to raise a lower share of the total and be more reliant on the top 1% of income taxpayers. See <http://deloi.tt/2qAQYex>

2. Finance Act: Royal Assent

The Finance (No 2) Bill passed through its remaining stages in the Commons on 25 April 2017. Extensive omissions were made from the Bill as originally introduced. Some of the major omissions include:

- Corporate loss carried forward rules;
- Corporate interest restriction rules;
- The changes to the substantial shareholdings exemption;
- The non-domicile changes;
- The changes on Making Tax Digital and the associated changes regarding trading and property allowances.

For full details of what has been included and what has been omitted see <http://deloi.tt/2os1Fnc>

Financial Secretary to the Treasury Jane Ellison said during the Committee Stage debate 'The Bill is progressing on the basis of consensus and therefore, at the request of the Opposition, we are not proceeding with a number of clauses. However, there has been no policy change. These provisions will make a significant contribution to the public finances, and the Government will legislate for the

remaining provisions at the earliest opportunity, at the start of the new Parliament.' See <http://deloi.tt/2olTdv7>

3. Criminal Finances Act: Royal Assent

A number of amendments have been made to the Criminal Finances Bill, which inter alia creates offences for cases where a person associated with a company or partnership facilitates the commission by another person of a tax evasion offence, and contains measures to create new offences of failure to prevent facilitation of tax evasion. These include a compromise new clause on overseas territories adopting publicly accessible registers of beneficial ownership (now section 9 of the Act). This, broadly, commits Ministers to lay before Parliament, before 1 July 2019, a report about the arrangements in place between the UK and each relevant territory, including an assessment of their effectiveness having regard to international standards. The Act received Royal Assent on 27 April 2017. See <http://deloi.tt/2psqOxn>

4. Double Taxation Treaty Passport scheme: updated terms and conditions

The Government published its response to the Double Taxation Treaty Passport scheme review on 20 March 2017. The scheme will now be made available to all UK borrowers that have an obligation to deduct withholding tax, including UK partnerships, individuals and charities. Transparent entities (including partnerships) will be admitted to the scheme as lenders where all of the constituent beneficial owners of the income are entitled to the same treaty benefits under the same treaty. Sovereign wealth funds and pension funds who are utilising withholding tax treaty rates will also be admitted as lenders. HMRC have now published the scheme's Terms and Conditions and Guidance, which will apply to loans entered into on or after 6 April 2017. See <http://deloi.tt/1qNOoBs>

5. VAT: revised guidance on holding companies

HMRC have published revised guidance on VAT recovery by holding companies. The guidance, as expected, confirms HMRC's position on a number of important issues in this area. Where a holding company receives advisors' services and undertakes (or intends to undertake) an economic activity that supports the taxable trading activities of a business that it plans to acquire, HMRC accept that it should be able to recover VAT on acquisition costs as overhead input tax. Providing management services to the acquired trading entities can be sufficient economic activity to support VAT recovery, provided that the services are 'genuine' and supplied in return for consideration which is more than nominal. The guidance also states that interest earned by a holding company on intra-VAT group loans to the acquired business, which support the making of taxable supplies by the VAT group, will also potentially justify VAT recovery. See

<http://deloi.tt/2oOQocQ>

6. European Commission working Paper: VAT Implications of Transfer Pricing

The VAT Committee of the European Commission has published a Working Paper on the 'Possible VAT Implications of Transfer Pricing'. See

<http://deloi.tt/2oOrKLLK>

This sets out some observations around when transfer pricing (TP) adjustments are likely to have VAT consequences, and notes a tension between TP rules which seek to arrive at the arm's length valuation of a transaction (i.e. an open market value), and VAT rules where consideration is seen as a subjective value (i.e. the price actually paid). For there to be any VAT implications, though, the paper considers that basic VAT principles must first be applied: there must be a supply for consideration, which must be directly linked to that supply. The paper sketches out areas that it considers would need to be taken into account in assessing this. Ordinarily, a working paper will lead to VAT Committee Guidelines, which may then lead to changes in national practices and even, perhaps, changes in relevant EU law. Even if such changes take place after Britain has left the EU, consideration of this area will remain important for multinational businesses, particularly those which are reviewing international TP methodologies in light of BEPS changes.

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