1. Introduction

On 3 March 2021, the Chancellor of the Exchequer, Rishi Sunak, delivered the first Budget since Britain’s exit from the EU, amid the challenging global economic landscape caused by the COVID-19 pandemic.

Economic recovery was a key theme of the speech, with an emphasis on fuelling growth through investment and incentives, as the pandemic restrictions ease gradually over the coming months. The Chancellor however did not shy away from the need for the Treasury to “balance the books” and recoup funds following the impact that COVID-19 measures have had on Government finances, with the headline measure being an increase in the main rate of corporation tax to 25% from April 1, 2023.

This year the Treasury are also holding a separate fiscal event, “Tax Day”, on March 23, where further tax policy and tax consultation announcements are due to be announced.

The Finance Bill is expected to be published on March 11, 2021. For the avoidance of doubt, none of the new measures outlined below have yet been enacted and based on previous Budgets we would expect enactment to occur no earlier than Summer 2021.

This bulletin sets out the key measures for Japanese owned groups. For detailed coverage and comment on the UK Budget 2021, visit Deloitte’s dedicated website at www.ukbudget.com
2. Business tax

2.1 Corporation tax rate

The headline measure is that the UK corporation tax rate will increase to 25% for companies with profits over £250k from April 1, 2023. The Chancellor noted that even with this increase, the UK will still have the lowest corporation tax rate in the G7 according to the OECD (once state taxes have been taken into account in the US). Meanwhile companies with profits of £50k or less will be eligible for a new small profits rate and will continue to pay corporation tax at 19%. For companies with profits between £50k and £250k, corporation tax rates will be tapered until they reach the main rate of 25%.

Although there was some speculation in the media prior to the Budget that the current UK corporation tax rate could increase immediately, the Chancellor announced that this change will not take effect until 2023, and will remain unchanged at 19% before that date. For Japanese groups, the increase in the corporation tax rate to 25% should result in most UK companies falling outside the scope of the Japanese anti-tax haven rules (JCFC), the threshold for which is set at 'less than 20%' for companies not considered as a 'Paper Company etc.'. However, there will be a continuous requirement to consider the impact from the JCFC rules whilst the UK corporate tax rate remains at 19%.

For UK GAAP and IFRS purposes, tax rate changes should be recognised on the basis of legislation that has been substantively enacted. For US GAAP, tax rate changes should be recognised on the basis of legislation that has been enacted. Neither substantive enactment nor enactment has yet taken place in respect of the above tax rate changes.

2.2 Diverted Profits Tax

The Chancellor also announced an increase in the rate of Diverted Profits Tax (DPT) from April 1, 2023 to maintain the current differential between the DPT rate and the corporation tax rate. The DPT rate will therefore increase from 25% to 31%.

DPT was introduced in 2015 to counteract certain contrived arrangements that result in the erosion of the UK tax base.

2.3 Enhancements to the loss relief rules

For accounting periods ending between April 1, 2020 and March 31, 2022, the period for which trading losses (including ringfenced oil and gas losses) can be carried back against previous profits has been extended from one to three years.

Losses should be offset against the most recent accounting period first. There remains no restriction on the amount that can be offset against profits arising in the immediately prior period, but the rules introduce a cap of £2m for the
maximum loss that can be carried back from each of the two years to which this enhancement applies.

Any claim below a de minimis of £200k does not need to be made in the tax return and can be made as soon as the loss can be sufficiently evidenced.

A group cap of £2m will also be introduced. However, the £200k de minimis applies on an entity-by-entity basis, and claims up to this amount can be made separately to the group cap. Where an entity in the group claims more than £200k then the £2m group cap applies and takes into account all claims made by the group, including those below the de minimis. A group allocation statement will also need to be submitted where the group cap is being utilised.

Any losses carried back cannot displace existing group relief claims, should the time limit for adjusting these have already expired.

2.4 Enhancements to the capital allowances regime

The Chancellor announced two changes to the capital allowances regime, which significantly increase the tax relief available on investment in new plant and machinery. These are:

- A new super-deduction of 130% in the year of acquisition, for the cost of most new plant and machinery investments that would previously have only qualified for capital allowances in the main pool (previously attracting an 18% allowance per annum on a reducing balance basis).

- A 50% First Year Allowance on most new plant and machinery investments that would ordinarily have only qualified for capital allowances in the special rate pool (previously a 6% allowance per annum on a reducing balance basis).

These rules will apply to qualifying expenditure incurred between April 1, 2021 (excluding expenditure on contracts entered into before 3 March 2021) and March 31, 2023.

Within the Oil & Gas sector, assets used wholly within a ring fence trade will be excluded from the super-deduction, as they already benefit from a 100% allowance, but assets used partly in a ring fence trade will qualify for a 100% First Year Allowance for the same period.

Anti-avoidance provisions will be introduced to prevent certain contrived arrangements, including where assets have been acquired from a connected party.

The Government has also announced an extension to the temporary annual investment allowance (AIA) limit of £1m for expenditure incurred on the provision of plant and machinery from January 1, 2021 to December 31, 2021. The AIA had been due to revert to £200k on January 1, 2021 but in line with other incentives to encourage businesses to invest in new plant and machinery, this enhancement has been extended.
2.5 R&D tax credits

In July 2020 the Government announced it would carry out a review of the types of expenditure that qualify for R&D tax reliefs, and a summary of the results of the consultation has been published. One of the key points from the consultation is the shift in the way R&D is carried out, and that data and cloud computing are key components of modern R&D.

The Government has agreed there is a strong case to bring these elements within the regime, but also notes that any expansion to the scheme brings with it increased costs to the Exchequer and potentially increased complexity.

Therefore, a wider consultation of the R&D regime has been announced on 3 March 2021, with the objective of ensuring that the UK remains an internationally competitive location for cutting edge research, that R&D reliefs continue to be fit for purpose and that taxpayer money is effectively targeted. This will include considering whether the current rates of relief (including the current 13% credit for large companies) remain appropriate. The consultation will run until June 2, 2021.

2.6 Withdrawal of the Interest & Royalties Directive

When the UK left the European Union on January 31, 2020 a transitional period came into effect, with the result that the EU Interest & Royalties Directive continued to apply. As the transitional period ended on December 31, 2020, legislation is being introduced to confirm that the benefits of the Interest & Royalties Directive will cease to apply where UK companies make payments to companies in the EU. As a consequence the UK withholding tax position of any interest or royalty payments made from June 1, 2021 will be determined in accordance with the UK’s double tax treaty with the payee country, assuming another domestic exemption does not apply. Where a payment is made before that date with a main purpose of avoiding a withholding tax payment then these provisions will take effect from 3 March 2021. Companies should consider whether any new treaty clearances should be applied for in the context of these new rules.

2.7 Mandatory Disclosure Rules

The Government will consult on the implementation of OECD rules under BEPS Action 12 to combat offshore tax evasion by facilitating global exchange of information on certain cross-border tax arrangements. Further details will be announced in due course.

2.8 Hybrid mismatches

Changes to the hybrid and other mismatch rules were announced in November 2020, following a consultation in Spring 2020 which considered whether the rules operated proportionately and as intended.

The proposed amendments issued during the Budget announcements are broadly the same as those proposed in November.
The full impact should be assessed when the draft legislation has been published in the Finance Bill.

2.9 Digital platforms

On July 3, 2020 the OECD issued a publication entitled “Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy”. Following this, the UK has introduced extended powers so that it is able to implement the model OECD rules contained in this paper in the future.

New regulations are expected to apply to digital platforms, such as websites and apps, that facilitate the provision of services by others. While HMRC already has the power to access information from UK-based platforms, implementing the OECD rules will enable them to exchange information with other tax authorities to access data on sellers using platforms based outside the UK. The purpose is to make it easier for sellers using such digital platforms to comply with UK taxation and to help HMRC to detect and tackle tax evasion. The regulations will be subject to consultation this summer and are not expected to come into force before 2023.

3. Freeports

The Chancellor confirmed the location of eight new Freeports in England, being East Midlands Airport, Felixstowe & Harwich, Thames, Liverpool City, Teesside, Solent, Plymouth and Humberside. This follows a 2020 consultation, of which the response was published on October 7, 2020, with the overall aim being to level up towns and regions. From a tax perspective, three main reliefs will apply to these Freeports:

- Enhanced capital allowances of 100% will be available for expenditure on qualifying plant and machinery for use within Freeport sites, where this expenditure is incurred on or after the date the Freeport site is designated until September 30, 2026.

- Enhanced structures and buildings allowances of 10% on qualifying expenditure on the construction of new, or renovation of existing, non-residential structures and buildings located in the Freeports, where this expenditure is incurred on or after the date the Freeport site is designated until September 30, 2026.

- Stamp duty land tax relief on purchases of land and buildings within a Freeport, where they are purchased between the date the Freeport is designated until September 30, 2026.

4. Industry Specific Measures

4.1 Review of the surcharge on banking companies

Several years ago the Government introduced a surcharge on banking companies, under which profits are subject to a surcharge of 8%, payable in addition to corporation tax. Surcharge profits are calculated on the same basis as corporation tax, with some reliefs denied. However, with the corporation tax
rate increasing the Government is concerned that the surcharge could make UK taxation of banks uncompetitive. The Government will therefore carry out a review of the banking surcharge during 2021, with the intention that the combined rate of taxation on banks does not rise substantially from its current level.

5. Indirect tax

5.1 VAT – new penalties and interest regime

New rules will be introduced to amend the penalty regime for late payment of VAT. Going forward the rules will work as follows:

- No penalty if the taxpayer pays the tax late but within 15 days of the due date
- 2% of the outstanding amount if they pay between 16 and 30 days after the due date
- 4% of the outstanding amount if any tax remains unpaid 30 days after the due date
- A second penalty of 4% per annum will be calculated on a daily basis for any amount unpaid from day 31 onwards

In addition, new rules will be introduced to amend the mechanism under which interest is calculated, such that interest will be calculated from the date on which the VAT was due until the date that the payment is received (and HMRC will pay repayment interest on any overpaid tax on the same basis).

These changes will come into effect for accounting periods beginning on or after April 1, 2022.

In addition, a new points-based penalty regime will be introduced for late submission of returns, under which a £200 late payment penalty will be due once the taxpayer has reached a points threshold, unless a reasonable excuse exists for the late submission.

5.2 VAT – extension to the reduced rate for the hospitality industry

In July 2020 the Government announced a temporary reduction in the VAT rate to 5% in respect of certain supplies made in the hospitality industry. This reduction was due to expire on March 31, 2021, but the Chancellor announced on 3 March 2021 that the reduced rate will be extended for a further six months, to September 30, 2021.

In addition, from October 1, 2021 the rate will only rise to 12.5%, which will run until March 31, 2022 after which it will return to the UK’s standard rate of VAT of 20%.
5.3 Plastic Packaging Tax

The Government announced in Budget 2018 that legislation would be introduced to tax the production and importation of plastic packaging.

From April 1, 2022, the Plastic Packaging Tax will apply to plastic packaging manufactured in or imported into the UK that does not contain at least 30% recycled plastic.

The registration threshold is 10 tonnes of plastic packaging per annum and once breached, the plastic will be taxed at £200 per tonne.