UK Budget analysis 2020

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CATEGORY:
VIDEO

The Chancellor today delivered his (and indeed this Government's) first Budget and it is fair to say that it was a very different one to that would have been envisaged on Friday 13 December when the Conservatives won their large majority. Since then the identity of the Chancellor has unexpectedly changed and Rishi Sunak, who has only been in the job for a month, found himself having to deliver an emergency budget in all but name against a backdrop of Covid-19 panic.

What was delivered was a "Coronavirus Budget", bolstered by large spending pledges underpinned by a massive increase in government borrowing as opposed to changes to tax policy. In fact, from a tax perspective, the Budget was much quieter than might have been the case, with possible changes to inheritance tax left completely off the table and only a few tweaks to existing tax regimes introduced.

Entrepreneurs' Relief

Beyond the spending and investment announcements, the headline change, and one which was not at all unexpected based on the briefings coming out of 10 & 11 Downing St, is the reduction, with immediate effect, in the lifetime amount upon which Entrepreneurs' Relief can be claimed from £10m to £1m. Entrepreneurs' Relief offers a reduced 10% rate of Capital Gains Tax on certain qualifying disposals of trading businesses and has always been held out as a tax which incentivises entrepreneurial activity.

However, the briefing note from HMRC issued to accompany the change states that those who benefitted from Entrepreneurs' Relief tended to be those who were older, male, of above-average means, and (perhaps unsurprisingly) include individuals who are selling their business or their company's shares on retirement and the entrepreneurial activity generated was not as great as would have been hoped (though reportedly 80% of those who use the relief will be unaffected). There are also a number of anti-forestalling measures which have been introduced so as to catch those who tried to plan before the Budget so as to bank Entrepreneurs' Relief when there was no genuine sale or disposal of a business to a third party, such as through the use of share exchanges or uncompleted contracts.

The other change to Capital Gains Tax of note announced is an increase in the Annual Exempt Amount to £12,300 for individuals and £6,150 for trustees, with effect from 6 April 2020.

Stamp Duty Land Tax

Governments have tended over recent years to view property taxes, and in particular SDLT, as a bit of a cash cow and this Budget was true to form in this regard. Having consulted last year on a SDLT surcharge for Non-UK Residents buying residential property England and Northern Ireland of between 1% and 3%, it was announced today that in fact a 2% surcharge will come in, but only with effect from 1 April 2021. There is clearly the hope that this will result in a flurry of property purchases over the next 12 months or so before the charge comes in, with the resultant increase in SDLT taking that this will entail. Therefore, non-UK residents looking to purchase UK residential property, now is the time to buy .

Pensions

Pensions are another area where successive governments have rarely been able to resist the urge to tinker, and this Budget was no exception. The Chancellor announced changes to pension tax relief, with the intention of significantly reducing the number of people affected by the Annual Allowance taper. Senior NHS clinicians were the motivation for the change but all higher earners will benefit. From 2020/21 the tapered Annual Allowance will only bite when an individual's income exceeds £200,000 and his adjusted income exceeds £240,000 (an increase of £90,000 on each threshold).

In addition, tapering will change so that the minimum Annual Allowance reduces from £10,000 per annum to just £4,000 for those with total income in excess of £300,000. There will remain significant tax advantages to these highest earners of saving into a pension arrangement, but the tax relief on these savings will be negligible.

Sadly, no fundamental review of the pension tax regime was announced. The changes to the Annual Allowance do not deal with the underlying issue that the Annual Allowance and taper are hugely complex and a practical headache to administer. Further, the announced measures will have no material impact on the mismatch between the need in an ageing society for people to save adequately for retirement and the strict limitations on the ability to do that in a tax efficient way.

Loan Charge and IR35

As had been announced at the end of December, the Budget contained provisions confirming that the Finance Bill will implement the recommendations from Sir Amyas Morse's Independent Loan Charge Review. This had reviewed the imposition of a tax charge on those who had been deemed to receive certain disguised remuneration and goes some way towards ameliorating the perceived harshness of the charge as originally applied by HMRC, whilst also allowing some of those who had reached settlement with HMRC under the harsher regime to be reimbursed certain voluntary payments already made. There will also be legislation introduced in the Finance Bill to reform the use of off payroll working schemes (IR35) as has been under discussion over the last couple of years and as often features in the press.

Business Tax

From a business perspective, as trailed in the election, the government has confirmed that the UK corporation tax rate will remain at 19% (rather than dropping to 17% from 1 April 2020), which will help cover some of the other cuts and additional spending that formed part of the budget. This rate is also to be maintained for the following year 1 April 2021-31 March 2022.

In line with the desire for the UK to be seen as being a place that drives innovation, in addition to extra funding being provided to R&D by the government, larger R&D focussed businesses will benefit from a slight increase in the 'above the line' R&D expenditure tax credit rate to 13% (up from 12%). It may also be of interest that the government will consult on whether expenditure on data and cloud computing should also qualify for R&D tax credits.

The UK has decided to press ahead with the implementation of the 'digital services tax'. This will impose a 2% tax on the value that businesses that run search engines, social media services or online market places derive from the UK (where those business have more than £500m worldwide revenues, of which £25m is derived from UK users). Whilst this may not impact too many businesses, as a general point it is particularly interesting that the UK is determined to press ahead with this legislation despite recent pressure from the US for the government to drop this proposal. Time will only tell whether this will actually impact the current trade negotiations with the US.

In an attempt to ensure that the UK remains competitive in the financial services sector, and in particular in relation to alternative investment funds, the government has today promised a review of the UK fund regime, from both a tax and regulatory perspective. As a first step, they have confirmed that the VAT treatment of investment management fees and the role/tax treatment of UK holding companies in alternative fund schemes and the potential barriers to funds setting up such holding structures in the UK will be reviewed.

For completeness, a few other points to note in the business space include:

- an extension of the intangible fixed assets rules to include the acquisition of pre-FA 2002 intellectual property from a related party within the regime;
- the extension of the stamp duty and stamp duty reserve tax market value rules to the transfer of unlisted securities to connected companies where there is an issue of shares; and
- for accounting periods ending on or after 1 April 2020, the amount of carried forward capital losses that can be offset by a company against current period capital gains will be restricted to 50% of the gains that accrue in that period (with transitional rules for any accounting periods that straddle this date), which brings the treatment in line with rules introduced in 2017 with regard to the restriction of use of carried forward income losses.

Anti-Avoidance Measures

Finally, it would not be a Budget without a further crackdown on tax avoidance. Since 2010 we are told that the government has secured and protected over £200 billion of tax that would have otherwise gone unpaid and the measures announced today are intended to raise a further £4.7 billion of tax between now and 2024-25.

Primarily these consist on cracking down further on promoters and enablers of tax avoidance schemes and empowering HMRC to obtain more information more quickly and to impose penalties more quickly. A new ambitious strategy for tackling the promoters of tax avoidance schemes will be published, with the clear intention being to drive such people out of the market, disrupt the supply chain and deter people from participating in such schemes. As part of this process, the government will look to gather evidence in the spring on raising standards for the provision of tax advice so as to be able to effectively support these standards and ensure that taxpayers are confident that the advice they are receiving is reliable (as you can be sure that all advice received from Withers is). There will also be additional compliance activity and expanded debt collection capabilities for HMRC.

As always, if you have any questions on the above, then please do speak to your usual Withers contact.

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