BUDGET OF 21 MARCH 2012: IMPACT ON QUOTED COMPANIES

After any Budget, the media focus tends to be on the impact on individuals – for example, income tax thresholds and rates, or the cost of fuel. Key elements of today's proposals have been widely covered by the media in recent days – although the Chancellor managed to keep a few surprises up his sleeve.

Chancellors use the tax system to change behaviours – extra capital allowances or cuts in rates to encourage investment; new anti-avoidance rules to discourage "abusive" tax planning. Businesses respond to these signals, but the impact can take time to become apparent. In addition, a constant diet of change adds complexity and instability, making long term business planning more difficult. The Chancellor signalled financial support for key industries, including pharmaceuticals, aerospace and digital technology, along with a renewed commitment to bring private finance into upgrading the UK's infrastructure

In 2010, the Government set itself the target to create the most competitive corporate tax regime in the world by 2015. It also said it was committed to running a stable tax regime. Today's Budget marks the approximate halfway point in that process so how should we assess progress along the roadmap?

The Good

After last year's 2 percent cut in the main rate of corporation tax to 26 percent, the Chancellor has done it again, setting a new 24 percent rate from 1 April 2012. Further 1 percent cuts are planned for 2013 and 2014, with a hint that the ultimate goal is a 20 percent rate – the same as the small companies' rate and the basic rate of income tax.

After prolonged consultation, two major reforms to the corporation tax regime were confirmed today:

- The patent box offers a 10 percent tax rate on profits derived from patents and will come into force from April 2013. Profits that can benefit from the regime include licence fees and royalties. But it will also cover profits generated from the wider exploitation of patents – for example, where a patented process is used to manufacture something or a patented item is included in a product. The new regime could prove highly valuable. A separate note on the patent box regime is available in publications section of our website.

- The controlled foreign company rules target profits rolled up in offshore subsidiaries, subjecting them to UK tax. A new, more straightforward regime will apply from 2013 but, as with all changes, working out the impact on existing group structures will take time and care.

Extensions to the R&D tax credit have been announced, with consultation on the detail over the coming months.

There were no other major changes announced to the corporation tax regime – which is likely to come as a relief to businesses as they try to absorb the numerous reforms made in recent years.

The Bad

Every Budget contains measures to clamp down on tax avoidance and this year has been no exception. The Chancellor confirmed previously announced measures as well as introducing new rules to block specific schemes, with a particular focus on high value residential property.

However, the key development is a proposed new general anti-avoidance rule (GAAR). A committee of experts reported late last year on the pros and cons of introducing a GAAR. This would be a general statutory rule that would enable HMRC to block schemes that are regarded as abusive of the tax system.

It is perhaps no surprise that the Chancellor has accepted the committee's advice and announced that the UK will have a GAAR from April 2013. The concept and precise wording will be consulted on over the next few months.

The GAAR will be an additional powerful weapon in HMRC's armoury against tax avoidance. It will run in tandem with existing rules, requiring schemes to be disclosed to HMRC before they are used, and the numerous existing (and no doubt future) targeted anti-avoidance rules. The committee expressed the hope that the thicket of rules could be substantially pruned once HMRC gain confidence that the GAAR enables them to block abusive actions. Time will tell whether this hope proves forlorn.

The Future

Last week, Vince Cable announced major reforms to increase shareholder scrutiny of executive remuneration. Whilst not directly linked to tax, these changes will have a direct impact on quoted companies. A briefing note on the proposals is available in the publications section of our website.

Another area that could have a big impact on quoted companies is an overhaul of the various tax-advantaged employee share schemes – company share option plans, SAYE options, SIPs and EMI options. The Office of Tax Simplification has proposed changes to simplify the schemes and the government now plans to consult on these. Our briefing note on the OTS proposals is available on the website.

Additional information

For additional information about the Budget or any other tax issues, please contact any of the Squire Sanders lawyers listed below or one of the Squire Sanders lawyers with whom you routinely work.

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