UK Spring Budget 2021 Freeports: Taxation

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The UK Spring Budget Statement delivered by the Chancellor of the Exchequer, Rishi Sunak, on Wednesday 3 March 2021, laid bare the scale of the economic damage caused by COVID-19 and the enormity of the challenges the country faces as it seeks to first build, and then secure, its recovery. For our Budget 20201 alert, see UK Spring Budget 2021 – The Long Road to Recovery: Taxation.

However, the Chancellor also used his statement to set out his initial plans to "change the economic geography of this country" post-COVID-19 and post-Brexit. The Chancellor's intention is to launch an investment-led recovery, to incentivise investment, productivity and growth and to build a new, innovative and "green", economy, which the government hopes will see the UK "level-up" and "grow back better". It seems inevitable that tax policy will (to some degree) have a role to play.

One policy confirmed by the Chancellor exemplifies everything the government is hoping to achieve: Freeports. The Chancellor set out his vision of what a UK Freeport will be, listing four key components:

- Simpler planning – to allow businesses to build
- Infrastructure funding – to improve transport links
- Cheaper customs – with favourable tariffs, VAT or duties
- Lower taxes – with tax breaks to encourage construction, private investment and job creation

He also announced the locations of the first eight English Freeports as:

1. East Midlands Airport
2. Felixstowe and Harwich
3. Humber (Hull)
4. Liverpool City
5. Plymouth
6. Solent (Portsmouth)
7. Thames (London)
8. Teesside

These Freeports are expected to begin operations from late 2021 once they have finalised governance arrangements and completed business cases. Additional new Freeports in Scotland, Wales and Northern Ireland are expected to follow.

At their core, each Freeport will (subject to approval and confirmation by the government) contain a tax-advantaged "tax site", a geographically delineated area where certain tax reliefs and incentives will be available. These reliefs were analysed in depth in our alert, Freeports in England: The Tax Offering but, broadly speaking, the Budget formally confirmed that businesses operating within the boundaries of a tax site will benefit from the following (thankfully now time-aligned) tax reliefs and incentives:

- **Full Stamp Duty Land Tax (SDLT) relief** – Subject to a control period of up to three years, this relief ensures purchases of land or property (which is intended to be, and is actually, used for a qualifying commercial purpose) in English tax sites will be free from SDLT. The relief will be available for purchases until 30 September 2026. The relief will be "clawed back" where the purchaser fails to use the property for a qualifying commercial purpose.
- **Enhanced Structures and Buildings Allowance (SBA)** – This allows tax-site businesses, investing in constructing or renovating non-residential buildings, to claim full tax relief for the cost over just 10 years (rather than the standard 33$^1/_3$ years). To qualify, the structure or building must be brought into use on or before 30 September 2026. A "just and reasonable" apportionment of qualifying expenditure will be made for buildings that are partly inside and partly outside the tax site.
- **Full business rates relief** – New businesses (and existing businesses that expand) in the tax site will not need to pay any business rates for a five-year period (provided that period starts on or before 30 September 2026).
- **Enhanced plant and machinery allowance** – This provides "full (100%) expensing" for investment in qualifying plant and machinery to be used at the tax site in the year the purchase is made. As with enhanced SBA, full expensing for plant and machinery will be available until 30 September 2026. The allowance will be "clawed back" if, within five years, the equipment is primarily used outside of the tax site.
- **Employer National Insurance Contributions (NIC) relief** – Subject to parliamentary process and approval, tax site businesses will be eligible for relief from employer NIC from April 2022. The relief will be available until at least April 2026 but, subject to a review, the government intends to extend it for up to five more years (to April 2031).

The enhanced capital allowances aspects of the government's Freeports offering complement the other major novel announcement in the Budget: the "super-deduction". The super-deduction provides that, from 1 April 2021 until 31 March 2023, companies across the whole of the UK will be able to claim a 130% deduction for investment in qualifying new plant and machinery in the year the equipment is purchased. This is a turbo-charged version of full expensing designed to encourage businesses to invest in equipment that will help them grow and become more productive. The additional 30% element of the deduction is intended to ensure the investment is made now (rather than delayed to set against the significantly higher 25% rate of corporation tax set to take effect in 2023). As will be the government's intent, the interaction of the enhanced allowances (coupled with other reliefs) in Freeports, with the two-year time-limited super-deduction, the existing 100% annual investment allowance (currently capped at £1 million) and the newly proposed three-year carry-back rules for COVID-19 losses, affords companies an opportunity to revisit their investment plans and structure them with greater efficiency.

Much of the criticism and indifference towards the policy has focused on two issues: first, that Freeports facilitate tax avoidance and evasion; and second, that they do not encourage new activity but instead suck activity (that would have taken place anyway) away from other areas. The Freeports prospectus put great emphasis on oversight and control with Freeports governance bodies obliged to continually monitor and evaluate business activity in their Freeport.

The government will hope the transparency necessary under these controls will prevent avoidance and evasion activities. They will also argue that Freeports are purposely designed to attract activity into the area as part of the Chancellor's plans to rebalance the UK's economy (both geographically and in terms of manufacturing and services) as part of the government's levelling-up agenda.

The success (or otherwise) of Freeports in achieving their stated aims remains to be seen. However, such has been the importance attached to the policy in representing and promoting the government's core aims, it seems likely that much will be done to ensure they are successful.

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