SQUIRE PATTON BOGGS

UK Spring Budget 2023

Tax Changes for Business

March 2023

Introduction

The Chancellor presented the Spring Budget as a "Budget for growth". As expected, the increase in the main rate of UK corporation tax to 25% from April 2023 will go ahead, but the introduction of a three-year full expensing capital allowance for investment expenditure will benefit companies with an investment strategy.

The focus on encouraging business investment is reflected in changes to research and development (R&D) tax reliefs and the creation of additional investment zones linked to research clusters.

The key business tax announcements are summarised below.

Capital Allowances: Full Expensing for Company Investment

Concern had been expressed about the impact on investment of the ending of the temporary 130% super-deduction (and related 50% special rate first-year allowance) for expenditure on plant and machinery as of 31 March.

The government has responded by introducing a temporary full expensing capital allowance regime. From 1 April 2023 to 31 March 2026, the first-year allowance rates of 100% and 50%, respectively, will apply (with certain exceptions) to capital expenditure on all new main rate plant and machinery and all new special rate assets acquired by companies subject to UK corporation tax. According to the chancellor, the purpose of this measure is to "ensure that the UK's capital allowances regime is world beating", and presumably has been introduced to soften the impact of the increased headline rate of UK corporation tax from 19% to 25%.

The current legislative framework for first-year allowances is broadly expected to apply to items of expenditure qualifying for the full expensing allowances. As with the super-deduction regime, the expenditure must be on new assets and equipment that is leased (other than on an excluded lease of background plant or machinery for a building, which will not qualify). Full expensing allowances will only be available to companies within the charge to corporation tax, and not to sole traders or partnerships/LLPs.

However, different rules are expected to apply to the disposal of items qualifying for full expensing allowances, in that an immediate balancing charge will apply to disposal proceeds at the rate of full expensing allowance claimed on acquisition (i.e. 100% or 50%). The detail will be in the Finance Bill to be published on 23 March.

R&D Tax Reliefs

Following on from the changes to R&D announced at the Autumn Statement 2022 applying to expenditure on or after 1 April 2023 to:

- Increase the Research and Development Expenditure Credit (RDEC) rate from 13% to 20%
- Decrease the additional deduction available to small and medium-sized enterprises (SME) from 130% to 86%
- Decrease the SME credit rate from 14.5% to 10%
- Expand the categories of qualifying expenditure to include the costs of datasets and cloud computing

the government today confirmed that it will introduce new measures aimed at loss making R&D-intensive SMEs to focus support on the companies most impacted by the above rate changes. The new measures will apply to companies who are considered to be R&D intensive (broadly, where its qualifying R&D expenditure is 40% or more of its total expenditure) and will enable them to claim, via their corporation tax return, a higher rate of R&D credit for expenditure incurred on or after 1 April 2023 (£27 for every £100 of R&D investment instead of £18.60 for non-R&D intensive loss makers). As this measure will be legislated in a future finance bill, affected companies will only be able to claim relief once the Finance Act has been enacted. In the meantime, companies wishing to claim the additional support will be able to claim the higher R&D intensive rate by either delaying submission of their R&D claim or by amending their claim once the legislation is in place.

Venture Capital Schemes

The government has announced that it will introduce measures to widen the scope of the Seed Enterprise Investment Scheme (SEIS). The measure will take effect for shares issued on or after 6 April 2023 and will increase:

- The maximum amount of SEIS investment a qualifying company can receive from £150,000 to £250,000
- The limit at the date of share issue on a company's gross assets from £200,000 to £350,000
- The age limit of a company's new qualifying trade from two to three years
- The annual limits that an individual can invest (and claim tax relief on) from £100,000 to £200,000

Pillar 2

The government will proceed with implementing the Organisation for Economic Co-operation and Development (OECD) Pillar 2 proposals in the UK with effect for periods beginning on or after 31 December 2023. As announced in the Autumn Statement in November 2022, the proposals will require UK headquartered multinational groups to pay a UK top-up tax where their operations in a non-UK jurisdiction have an effective tax rate of less than 15%. The top-up tax would also apply to non-UK headed groups with UK members that are partly owned by third parties or where the headquarter jurisdiction does not implement Pillar 2.

There will also be a supplementary domestic top-up tax requiring large groups, including those operating only in the UK, to pay a top-up tax where their UK operations have an effective tax rate of less than 15%.

The proposals will apply to large groups with more than €750 million in global revenues.

Although these measures were previously announced, it had been hoped that there may have been a delay in implementing them, given their complexity and that the OECD is still working on key issues such as safe harbours.

Share Incentive Schemes

The process for granting share options under Enterprise Management Incentive (EMI) schemes will be simplified by the removal of the requirements that employees must sign a declaration as to their working time for the relevant company and that the option agreement must set out details of the share restrictions applying to option shares. These requirements will be removed for options granted from 6 April 2023 on. Unexercised options granted before that date will also benefit.

This is a welcome change, as noncompliance with these requirements can lead to issues as to whether the options comply with EMI rules and uncertainty as to the treatment on exercise.

There will also be a consultation on the tax-advantaged all-employee share incentive regimes for share incentive plans (SIP) and Save As You Earn (SAYE) schemes. It is likely that the government wants to improve the acceptance of these schemes, building on the relaxations announced last year to the Company Share Option Plan rules that will come into effect as planned from 6 April.

Investment Zones

The government will introduce 12 investment zones across the UK linked to research clusters. These zones will benefit from a package of tax reliefs, including relief from Stamp Duty Land Tax on certain land acquired in the site, enhanced capital allowances for plant and machinery used within the site, enhanced structures and buildings allowances on qualifying construction expenditure incurred within the site and relief from employers' National Insurance Contributions for new employees spending 60% of their working time within the site on earnings up to £25,000 for up to three years.

Carried Interest: Elective Accruals Basis

Legislation will be introduced to provide an elective accruals basis of taxation for holders of carried interest. The change will allow UK-resident investment managers to accelerate their tax liabilities in relation to carried interest to align the timing with the position in other jurisdictions where they may obtain double taxation relief.

The change will be effective from 6 April 2022.

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