KPMG

KPMG in the Channel Islands UK Budget 2017

Date 8 March 2017

Tax Alert

UK Budget 2017

Few expected a dramatic budget from Philip Hammond, and he lived up to those expectations. As ever, there are a number of areas that might be of particular interest to the financial services industries in the Channel Islands, and these are set out below:

Profits from Trading in and Developing Land in the UK

The 'Profits from Trading in and Developing Land in the UK' measure was announced at Budget 2016 and took effect for disposals of property on or after 5 July 2016. The legislation brings into charge to UK taxation all profits from dealing in or developing land in the UK, irrespective of the residence of the person making the disposal. The double tax arrangements (DTAs) that the UK has with the Crown Dependencies were amended to affect this legislation.

The current commencement rule excludes profits from disposals made on or after 5 July 2016, where the contract was entered into prior to 5 July 2016. New legislation will be introduced in Finance Bill 2017 to tax all profits from dealing in or developing land in the UK that are recognised in the accounts on or after 8 March 2017. This will be the case even if the contract for disposal was entered into prior to 5 July 2016.

Qualifying recognised overseas pension schemes (QROPS)

Transfers to QROPS requested on or after 9 March 2017 will be taxable unless, from the point of transfer:

— the member is resident in the same jurisdiction in which the QROPS receiving the transfer is established;

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- both the member and the receiving QROPS are within the European Economic Area (EEA);
- the QROPS is set up by an international organisation for the purpose of its employees;
- the QROPS is an overseas public service pension scheme; or
- the QROPS is an occupational pension scheme and the member is an employee of the sponsoring employer.

If none of the above apply, there will be a 25% tax charge on the transfer, with the tax being deducted by the administrator or manager of the pension scheme making the transfer.

The draft legislation also widens the scope of UK taxing provisions so that, following a transfer to a QROPS on or after 6 April 2017, the taxing provisions apply to payments out of those transferred funds in the five tax years following the transfer.

Withholding tax on interest

In order to encourage investment in the UK and make it easier for businesses to raise finance, the government will renew and extend the administrative simplifications of the Double Taxation Treaty Passport scheme to assist foreign lenders and UK borrowers. This scheme simplifies access to reduced withholding tax rates on interest that are available within the UK's DTAs with other countries. The DTAs that the UK has with the Crown Dependencies do not include an interest article; as such, financial institutions resident in Jersey and Guernsey are currently precluded from enjoying the benefits of the Double Taxation Treaty Passport scheme. However, we understand that negotiations are in progress to update the DTAs and any new DTA should afford the appropriate benefits in the future.

The UK Government will also introduce an exemption from withholding tax for interest on debt that is traded on a multilateral trading facility (i.e. a self-regulated trading venue), removing a barrier to the development of UK debt markets. The government will release a consultation on 20 March 2017 on implementation of the exemption.

Non-resident companies chargeable to income tax and non-resident capital gains tax

As announced at Autumn Statement 2016, the UK Government will consult on the case and options for bringing non-UK resident companies, who are currently chargeable to income tax on their UK taxable income, and to non-resident capital gains tax (CGT) on certain gains, within the scope of corporation tax. Under such a move, these companies would then be subject to the rules that apply generally for the purposes of corporation tax, including the limitation to corporate interest expense deductibility and loss relief rules. The consultation document will be published on 20 March 2017.

Tackling disguised remuneration avoidance schemes

As announced at Autumn Statement 2016, the UK Government will legislate in Finance Bill 2017 to tackle existing and prevent future use of disguised remuneration avoidance schemes. The future use of schemes will be prevented by strengthening the current rules. The existing use of schemes will be tackled by the introduction of a new charge on disguised remuneration loans that were made after 5 April 1999 and remain outstanding on 5 April 2019.

Furthermore, legislation will also be introduced to prevent employers claiming a deduction when computing their taxable profits for contributions to a disguised remuneration scheme unless income tax and NICs are paid within a specified period.

Requirement to correct previous non-compliance

As announced at Budget 2016, legislation will be introduced in Finance Bill 2017 for a new legal requirement for those who have failed to declare UK tax on offshore interests to correct that situation, with tougher sanctions for those who fail to do so before 1 October 2018. This new 'requirement to correct' is expected to come into force when the Finance Bill 2017 receives Royal Assent and will apply to all taxpayers with offshore interests who have not complied with their UK tax obligations as at 5 April 2017.

Continuing crackdown on tax evasion and tax avoidance

A number of announcements were made aimed at tackling tax avoidance and evasion, including:

- **Promoters of Tax Avoidance Schemes ("POTAS")**: legislation will be enacted to ensure that promoters of tax avoidance schemes cannot circumvent the POTAS regime by re-organising their business by either sharing control of a promoting business, or putting a person or persons between themselves and the promoting business.
- **Strengthening tax avoidance sanctions**: as announced at Autumn Statement 2016, the UK Government will introduce a new penalty for a person who has enabled another person or business to use a tax avoidance arrangement that is later defeated by HMRC. The defence of having relied on non-independent advice as taking 'reasonable care' when considering penalties for a person or business that uses such arrangements will be removed.
- **Image rights**: the UK Government is aware that some employers pay image rights in respect of employees under separate contractual arrangements to employment income. HMRC will publish guidelines for employers who make payments of image rights to their employees to improve the clarity of the existing rules.
- **NIC avoidance**: HMRC is actively monitoring National Insurance Employment Allowance compliance following reports of some businesses using avoidance schemes to

avoid paying the correct amount of NICs. The UK Government will consider taking further action in the event that this avoidance continues.

5 April 2017 Deemed domicile and IHT on UK residential property

As expected, there were no further details released on these changes that will apply from 6 April 2017. It is expected that a further draft of the legislation will be released on 20 March 2017, but it will remain subject to change. Clients and their advisers now find themselves in the difficult situation of not knowing the precise rules that will apply to them from 6 April 2017, even though the original announcements were made in summer 2015.

There were a number of clarifications released by HMRC prior to the Budget. In particular, HMRC confirmed that if a settlor provided a repayable-on-demand loan directly or indirectly to a relevant trust prior to 6 April 2017 on non-commercial terms (e.g. at a low or nil rate of interest), and that loan remained outstanding on 6 April 2017, then this would generally be regarded as a provision of property for the purposes of the settlement; therefore the trust would no longer be protected. There will however be a transitional provision providing certain conditions are met before 5 April 2018.

ATED rates for 2017/18

The ATED rates for 2017/18 are as follows:

Property value	Charge
More than £500,000 but not more than £1 million	£3,500
More than £1 million but not more than £2 million	£7,050
More than £2 million but not more than £5 million	£23,550
More than £5 million but not more than £10 million	£54,950
More than £10 million but not more than £20 million	£110,100
More than 20 million	£220,350

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