UK tax law changes in a Brexit environment

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On 29 March 2017, the United Kingdom of Great Britain and Northern Ireland notified the European Council of their intention to withdraw from the European Union and officially initiated the so-called "Article 50 procedure". With many terms of leaving yet to be agreed, Chancellor Philip Hammond introduced the annual Autumn Budget on 29 October 2018 - exactly five months before the UK is scheduled to leave the EU.

Hammond's comments on austerity as well as measures proposed for support of the UK National Health Service have been widely commented in the media. Furthermore, comments on the potential need for a spring budget in case no deal is concluded in Brexit negotiations received broad attention. However, the UK government – as well as EU officials – has repeatedly stated that a "No Deal" scenario remains unlikely given the mutual interests of the UK and the EU in securing a negotiated outcome settled by a formal agreement. Businesses are eager for certainty in order to prepare for the new situation that will – no matter what is agreed – entail certain fundamental changes to terms of trade from a tax and legal perspective.

However, as usual, changes in tax laws are major content of the Autumn Budget. In total, 33 out of 86 listed measures relate to proposed changes in tax laws, covering the area of personal taxes as well as corporate taxes.

Personal and employment taxes

As the most visible proposal, there shall be an increase of the personal income tax allowance from April 2019 onward, one year earlier than expected, to GBP 12,500. Similarly, the basic rate band threshold shall be increased to GBP 37,500. Furthermore, the capital gains tax annual exemption for individuals shall increase to GBP 12,000, while savings and dividend taxation shall remain unchanged.

Qualification rules for entrepreurs' relief shall be tightened, however, the system as such shall remain in place despite earlier rumours on contemplated abolishment. Rules for off-payroll contractors shall be changed in the private sector similar to previous changes in the public sector, so that responsibility for taxation is shifted from the contractor to the organization engaging the contractor for the work. This means that deductions for PAYE/NIC (withholding of wage tax and insurance contributions) shall be taken at source in the future, if respective conditions are met.

Corporate taxes

Probably the major news in the area of corporate taxes is the contemplated implementation of a new tax, which is the so-called Digital Services Tax (DST). Such tax had been announced earlier in line with similar proposals brought forward by the OECD and the EU. However, UK would be a first-mover on implementation, with both OECD and EU proposals still widely discussed – a reminder of UK pioneering in the implementation of the "Diverted Profits Tax" a few years ago. The DST shall apply at a rate of 2% based on revenues and be introduced from April 2020 onward. A consultation shall be started with respect to the detailed design of the tax. The tax is based on the concept that a significant part of the value of certain business models is generated through the participation of their users, and where such users are resident in UK, value is being created in UK, giving rise to taxation accordingly. The proposed tax is targeted towards business models such as social media platforms, search engines and online marketplaces. It is understood that taxable events may include advertisements show to UK users through the platform, and bilateral interactions between local UK users facilitated through the platform.

Furthermore, after earlier consultations, a proposal regarding the extension of the royalty withholding tax had been expected. The earlier discussions have now resulted in draft legislation that provides for direct taxation of the foreign recipient for charges for intangible property which are based on the sale of goods or services in the UK. Application, however, shall be limited to cases where no tax treaty is present between UK and the recipient country.

Proposed autumn budget measures shall be enacted through Royal Assent of the respective Finance Bill. Certain proposed measures, such as the details on the proposed implementation of the DST, will be subject to further consultation by UK tax authorities. Both the legal implementation as well as consequences on the tax system resulting from the outcome of Brexit negotiations will require close monitoring for taxpayers. |

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