

Budget 2018: Business Tax

(Lecture B1101 – 19.34 minutes)

Capital allowances

The annual investment allowance will temporarily increase from £200,000 to £1 million for the two-year period from 1 January 2019 to 31 December 2020. This does mean there will once again be complex rules for periods of account spanning those dates, and businesses will need to take care that they do not inadvertently spend too much at the wrong time in the accounting period.

For 2019 and 2020, an update to items on the energy technology list and the water technology list which qualify for enhanced 100% capital allowances to reflect developments in eligible technologies;

The 100% first-year allowances for energy saving plant and machinery and environmentally beneficial plant and machinery will come to an end on 5 April 2020. The current 100% first-year allowance for expenditure incurred on electric charge-point equipment, which was to have expired on 5 April 2019, is extended to 5 April 2023.

The special rate of writing-down allowance will reduce from 8% to 6% from 6 April 2019. The special rate applies to cars (other than certain low emission cars), long-life assets, thermal insulation and integral features. For periods of account spanning 6 April 2019, expenditure in the special rate pool will be relieved at a hybrid rate somewhere between 6% and 8%.

A new Structures and Buildings Allowance (SBA) is to be introduced for new non-residential structures and buildings. Relief will be provided on eligible construction costs incurred on or after 29 October 2018, at an annual rate of 2% on a straight-line basis. There will not be a system of balancing charges or balancing allowances on a subsequent disposal of the asset. Instead, a purchaser will continue to claim the annual allowance of 2% of original cost. The amount eligible for relief will not be increased where a structure or building is purchased, or where it has appreciated in value, as this does not represent the cost of construction.

Relief will be available for UK and overseas structures and buildings, where the business is within the charge to UK tax. The cost of land or rights over land, and the costs of obtaining planning permission, will not be eligible for relief. Relief will not be available for structures or buildings where a contract for the physical construction works is entered into before 29 October 2018.

For speculative building and those structures or buildings constructed 'in house', relief will not be available where the construction activity began before that date. SBA expenditure will not qualify for the annual investment allowance.

The Government will legislate in Finance Bill 2019 to clarify when expenditure on altering land for the purposes of installing plant or machinery can qualify for capital allowances. The intention is to put beyond doubt that the land alteration expenditure qualifies for plant or machinery capital allowances only where the plant or machinery itself so qualifies. This takes effect for capital allowances claims made on or after 29 October 2018.

Corporation Tax

Digital services tax (DST)

Tackling the tax treatment of digital business is part of the OECD's base erosion and profit shifting (BEPS) project and the Chancellor has confirmed he remains committed to this process but has proposed the introduction of a digital services tax whilst the BEPS project is finalised.

The DST will be 2% tax on revenues generated from search engines, social media platforms and online marketplaces where those activities are linked to the participation of UK users. There will be a £25 million per annum allowance and the DST will only apply to groups that generate global yearly revenues of more than £500 million. A tax on revenue can have a higher impact on loss-making and start-up companies but there will be a safe harbour provision that exempts loss-makers and reduces the effective rate of tax for business with very low profit margins. The tax will be introduced in April 2020 but the Government will consult on the detail.

The UK proposal contrasts with a proposal from the European Commission for an interim DST of a 3% tax that the Committee on Economic and Monetary Affairs of the European Parliament has suggested should be set at 5%.

Capital losses

From 1 April 2020, the Government will bring the treatment of capital losses in line with other corporate income losses. Therefore, the utilisation of brought forward capital losses will be restricted to 50% of annual capital gains. This aligns with the restrictions on other corporate tax losses that were introduced from 1 April 2017. The current £5 million allowance that applies for corporate income tax losses will therefore be extended to capital losses. There will be a consultation on the detail of the proposals and also the introduction of anti-avoidance measures.

Intangible assets

Following consultation on the treatment of intangible fixed assets in spring 2018, the Government intend to reform the intangibles regime. This reform will partially reinstate relief for acquired goodwill in the acquisition of businesses with eligible intellectual property from April 2019. This relief was completely removed for goodwill acquired on or after 8 July 2015.

In addition, the de-grouping charge rules will be amended for de-groupings occurring on or after 7 November 2018 so that a charge will not arise where the de-grouping is the result of a share disposal that qualifies for substantial shareholding exemption. A de-grouping charge applies when a company leaves a group after the transfer of an asset on a tax neutral basis. Further details will be released on 7 November 2018.

As announced in the Autumn Budget 2017, a UK income tax charge will apply to amounts received in a low tax jurisdiction in respect of intangible property where those amounts are referable to the sales of goods or services in the UK. This measure will apply to income from both related and unrelated parties.

There will be a £10 million de minimis UK sales threshold and exemptions for income that is taxed at appropriate levels or which relates to intangible property that is supported by sufficient local substance. The income tax charge will apply regardless of whether there is a UK taxable presence. This measure will apply from 6 April 2019.

Research and development (R&D) tax credit

An SME with a trading loss that has incurred qualifying R&D expenditure can surrender all or part of the loss for a tax credit that is currently 14.5% of the surrenderable loss. For accounting periods beginning on or after 1 April 2020, there will be a limit on the amount of tax credit that a company can claim under the R&D SME tax relief scheme. The limit will be set at three times the total PAYE and NICs payment for the period. Consultation is expected.

Definition of a permanent establishment

A company not resident in the UK will be chargeable to corporation tax if it carries on a trade in the UK through a permanent establishment (PE). However some companies avoid establishing a PE by fragmenting their activities.

From 1 January 2019, a non-UK resident company will be denied this PE exemption where that company or group carries on a business operation in the UK, one of the companies has a PE where complementary functions are carried out and the activities would create a PE if they were in a single company.

This legislative change puts into UK domestic law the proposals of the OECD in their base erosion and profit-shifting (BEPS) project.

Diverted profits tax

Amendments will be made to the diverted profits tax rules to close planning opportunities and modify the mechanics of the legislation.

Charities and charitable giving

The Government will legislate to increase the charities' small trading exemption limits. These limits apply to trading that does not relate to the charities' primary purpose. The main limit is 25% of the charity's income, but it is currently £5,000 if total income is under £20,000, and is currently £50,000 if total income is over £200,000. In future the limits will be £8,000 if total income is under £32,000 and £80,000 if total income is over £320,000. The changes will have effect on and after 6 April 2019 for unincorporated charities and from 1 April 2019 for incorporated charities.

The Gift Aid Small Donations Scheme currently applies to donations of £20 or less made by individuals in cash or by contactless payment. This will increase to £30. Parliamentary timetable permitting, the increase will take effect from 6 April 2019.

The previously announced simplification of Gift Aid donor benefit rules will go ahead from 6 April 2019 as expected.

Other measures

The following measures have been previously announced and remain largely unchanged:

- amendments to the corporate interest restriction to ensure that it works as intended and takes account of the impact of IFRS 16;
- non-UK resident companies that carry on a UK property business or have UK property income to be within the charge to corporation tax rather than income tax, from 6 April 2020;
- certain UK residential property gains for non-UK resident companies will come into charge to corporation tax from 6 April 2019;
- amendments to relief for carried-forward losses for companies to ensure that legislation works as intended;
- amendments to the controlled foreign company legislation and amendments to the hybrid mismatch rules to comply with the EU directive on anti-tax avoidance

VAT

VAT registration and deregistration thresholds

The current VAT registration threshold of £85,000 and the deregistration threshold of £83,000 will be maintained. The threshold will stay at its existing amount until April 2022.

Vouchers

Legislation will be implemented that ensures that the correct amount of VAT is levied on the amount paid by the customer, regardless of whether the customer pays with a voucher or other means of payment.

VAT fraud in labour provision in the construction sector

The Government will extend the scope of the domestic reverse charge mechanism to include labour provision in the construction sector.

VAT and higher education

The Government have stated that they will amend VAT law to ensure continuity of VAT treatment of English education providers under the Higher Education and Research Act.

Split payment (alternative method of collecting VAT)

The Government have announced that they will publish a response to their previous consultation on the introduction of a split payment method under which businesses would pay the VAT collected from the customer directly to HMRC.

VAT grouping

The Government announced that legislation will extend the eligibility to join a VAT group to certain non-corporate entities, and revised VAT grouping guidance will be issued to clarify certain areas.

VAT — adjustments to Regulation 38

Stricter rules will be introduced regarding how and when adjustments to VAT should be made following a retrospective reduction in the price of goods or services.