BUDGET 2016

What are the key considerations for retail and consumer businesses?

The Chancellor delivered the Government's 2016 Budget on 16 March with retail and consumer ("R&C") businesses hoping for more positive news than July and November's announcements delivered. The imminent introduction of the National Living Wage combined with anticipated business rate increases meant the measures outlined by the Chancellor have been relatively well received, with the exception of soft drink manufacturers who have been hit hard by the highly controversial sugar tax.

The sugar tax

Although regularly discussed in the media in recent months, fuelled partly at least by a high profile campaign fronted by Jamie Oliver, the introduction of a sugar tax caught many by surprise. Under the Chancellor's plans, a two-tier levy on soft drinks will be introduced in 2018. For drinks containing more than 5g of sugar per 100ml, the levy will be 18 pence per litre, rising to 24 pence per litre for drinks containing more than 8g of sugar per 100ml. Milk-based drinks and pure fruit juices will be exempt.

Unsurprisingly, many soft drinks manufacturers feel unfairly targeted by the tax as part of the Government's drive to reduce obesity levels, particularly given their efforts to reduce sugar in soft drinks, which has fallen by 13.6% overall since 2012.

The estimated £530m raised by this tax is intended to be spent on boosting school sports. The aim, according to the Chancellor, is to force manufacturers to cut the amount of sugar in their products. However, the independent Office for Budget Responsibility expects the cost to be "passed entirely onto the price paid by consumers".

Britvic summed up the views of many soft drink manufacturers in its statement on the changes: "Singling out soft drinks alone will not solve the obesity problem; given the small proportion of calories they contribute in the average diet. We remain of the view that only a holistic, wide-ranging strategy will tackle obesity."

Louisa Caswell, Partner at Addleshaw Goddard, thinks that the singling out of soft drinks and the exclusion of other high-sugar products may cause the government some issues. "As has happened in other European jurisdictions where similar taxes have been introduced or considered, manufacturers will be giving serious thought as to whether the sugar tax can be challenged."

Business rates

Smaller R&C businesses are likely to view the Budget with more optimism as result of planned changes to business rates – an issue that retailers have been campaigning on for many years.

From April 2017, the threshold for small business rate relief will be raised to £15,000 rateable value, up from £6,000, while the higher rate threshold will rise from £18,000 to £51,000. The changes should mean around 600,000 small businesses, pay no rates from April 2017, and around 250,000 will see their rates reduced.

A further welcome change is the move from using the Consumer Prices Index (CPI) as the basis for future business rates increases, rather than the Retail Prices Index (RPI). The change will be introduced in April 2020 and should lead to less-steep increases in rates bills for retailers. The frequency of business rates reviews will also be increased to every three years.

The CEO of Sainsbury's, Mike Coupe, welcomed the changes, but said that more still needed to be done: "While we welcome the benefit today's budget will bring to small businesses, it continues to ignore consumers' rapidly changing shopping habits and fails to create the much needed level playing field between traditional retailers and online-only operations. Business rates remain an analogue tax in a digital age and they still require reform."

Joe Maitland, Managing Associate at Addleshaw Goddard, agrees with Coupe - "The wider retail industry will view the business rates changes as a step in the right direction, after campaigning for a number of years for a fairer system. However, the proposed changes only benefit small businesses and there is still a huge sense of unfairness that, in an increasingly digital world, bricks and mortar retailers continue to be penalised by the business rates system."

VAT loopholes

More welcome news for R&C businesses came in the shape of a crackdown on VAT loopholes used by online retailers based outside the UK that sell to UK customers. The measure, part of the Finance Bill 2016, gives HMRC more powers to tackle non-compliance by overseas businesses that avoid paying UK VAT on sales of goods through online marketplaces.

HMRC will be able to require these sellers to appoint a UK tax representative to handle their UK VAT payments. If they continue to evade VAT or refuse to comply, the Government will be able to notify online marketplaces who will themselves become liable for the lost VAT if they allow the seller to continue using their platform. George Osborne said the change is intended to help small businesses trading online to compete without the unfair advantage that VAT fraud brings.

An eBay spokesman said: "We welcome rules that ensure a fair marketplace. Even without such a law, we would not hesitate to suspend sellers found by HMRC to be evading VAT. We already remind all our users of their need to comply with legal obligations."

Corporation tax reduction

The announced reduction in corporation tax, from 20% to 17% in 2020, is also good news for R&C businesses. The change would represent an 11% fall in corporation tax since 2010.

Although the move was partly offset by a series of measures to widen the tax’s base and limit companies’ ability to bring forward credit from losses in previous years, the reduction was broadly welcomed by UK plc.

Carolyn Fairbairn, director-general of the CBI, said: “The reduction in the headline corporation tax rate sends out a strong signal that the UK is open for global business investment.” But she added: “Changes to the tax treatment of losses will make it harder for larger scale-up firms and companies that have been through tough times to play their part in the recovery.”

Paul Concannon, Tax Partner at Addleshaw Goddard, agrees: "The sustained reduction in the headline rate of corporation tax is clearly intended to send a message that the UK is open for business and wants to attract further investment, perhaps particularly in light of uncertainty around the UK's relationship with the EU. However, a more nuanced picture appears from the financial projections in the Budget papers. If you go into the detail of the numbers, it is clear that the Government assumes that the tax lost through the reduction to 17% will be more than offset by tax raised through restrictions on deductions for interest and on use of prior year losses. Leaving aside business rates the overall intended result is actually an increase in the tax on profits of larger businesses, though how an individual business feels about these changes will depend considerably on how leveraged it is and what its prior year loss position is."

Duty

Duty on beer, most ciders and spirits was frozen, but the duty on wine was raised by RPI. Duty on tobacco products was also increased by 2% above inflation, while the duty on hand rolling tobacco increased by 5% above RPI. These changes came into force at midnight on the day of the budget.

Fuel duty, however, remained frozen at 57.95 pence per litre. It is the sixth year in a row that fuel duty has remained unchanged, with the intention, according to the Chancellor, of enabling consumers to “to benefit from the recent slide in oil prices.” The duty was last increased in January 2011.

Pensions

Many R&C employers will be relieved that despite speculation, salary sacrifice arrangements for pensions were not abolished.

The Government has said that it is reviewing the range of benefits that attract income tax and NIC advantages when provided as part of a salary sacrifice scheme, but pension saving, childcare and health-related benefits such as Cycle to Work, should continue to receive beneficial treatment when provided through salary sacrifice arrangements.

The Government also announced the introduction of a ‘Lifetime ISA’ from April 2017 for adults aged under 40. This will allow people to save up to £4,000 per year and receive a bonus equal to 25% of that amount from the government.

Savings from a Lifetime ISA can be used to buy a first home up to £450,000 or be withdrawn tax free after the age of 60. Savings can also be withdrawn earlier, but it would incur a 5% charge and lose the government bonus.

For large employers in the R&C sector that offer flexible benefits packages, this development may be of interest. Younger employees may prefer the more flexible option of contributing to a Lifetime ISA, rather than having contributions paid on their behalf to a pension scheme.

Jade Murray, Pensions Partner at Addleshaw Goddard, comments: "There was much relief all round that the Chancellor decided not to radically alter or abolish the current system of pensions tax relief in favour of a less generous "Pensions ISA". The jury is still out however as to whether this represents only a temporary stay of execution. Some believe that the new "LISA" is the start of that process of abolition. If it is, it would represent yet another government measure, in a long line of which, that undermines rather than encourages retirement saving. More optimistically, the creation of the LISA is likely to be welcomed by "millenials" looking for a savings vehicle to help them jump onto the housing ladder. What we don't know though is whether the option of saving via a LISA will encourage greater numbers of millenials to opt out of pensions auto-enrolment. If it does, it may reduce some employers' pension costs. However it might also encourage the government to listen to ex-Pensions Minister Steve Webb and increase the compulsory rates of auto-enrolment contributions to compensate, especially if pension tax relief is worsened in future. As ever with pensions, the only thing that's certain is that nothing stays certain for very long! Let's see what the Autumn Statement brings….."