AUTUMN BUDGET 2017 – RETAIL AND CONSUMER

The recent Budget was something of a mixed bag for UK retail and consumer businesses when it came to tax measures.

Starting with the positives, perhaps the best headline news was the explicit recommitment by the government (at least, the current government) to a stable and competitive business tax regime that has at its heart low headline rates of corporation tax. Although some possibly fundamental changes in the tax system may eventually come out way, the current approach outside clampdowns on avoidance and evasion is to announce these in advance and give businesses time to plan, which is welcome. Specific bits of good news included the increase in R&D tax credits, further support for business rates including the retrospective repeal of the Supreme Court's "*staircase tax*" decision, and fuel duty freezes that will be welcomed in keeping logistics and transport costs down.

Arguably less positive was the announcement of a series of possible changes to how employment is recognised and treated for tax purposes. The Taylor review of employment practices is to be followed up with a government paper on employment status tests, and there is also to be a consultation on extending the off-payroll working reforms introduced in 2017 for the public sector. Businesses with a large number of self-employed, ad hoc or temporary workers may have reason to be apprehensive about their future employment tax costs and responsibilities given the apparent direction of travel in this area.

The biggest news for the sector was probably the increasing focus on multinationals that have wholly or partly online businesses, how these contribute to UK corporation tax revenues and whether the existing framework of tax rules is still adequate to deal with them. This matters, both in terms of how that type of business exploits weaknesses in domestic tax regimes by the way it structures its group and operations internationally, and also in terms of the more fundamental question of what the right way is to tax the profits of that sort of business – which jurisdiction should have taxing rights over how much of those profits? The UK government clearly considers that the current framework is inadequate to cope with this type of business, and appears to be trying to lead a debate on what the right approach should be.

The position paper published on corporation tax and the digital economy accepts that merely making sales in the UK shouldn't be enough to give the UK taxing rights, but it also raises some complex questions about recognising – and taxing – the contribution to overseas profits made by UK users of digital businesses, especially in relation to businesses like social media and peer-to-peer platforms. These fundamental issues also affect other multinational businesses that have international supply chains – what is the right way to assess the relative contributions to profit made by a group's manufacturers, designers, holders of IP rights, providers of capital and decision makers in a complex cross-border business? There aren't any easy answers to that sort of question but the intended direction of travel seems to be away from taxation on the basis of residence, branches and current transfer pricing methods, and towards a more fluid system that may produce rather different results and tax costs.

Most of that is for the longer term, but there were some short term measures. A new withholding tax will arrive in April 2019 and apply to royalty and other payments made to low tax jurisdictions in connection with sales to UK customers (which might be taken as tacit acceptance that diverted profits tax is not working as well as hoped). Rules on VAT compliance by traders on online marketplaces will tighten further, with among other things the introduction of full joint and several liability of those marketplaces for unpaid VAT liabilities of the actual traders.

Finally, HMRC is to receive £155m of new funding – aimed at tackling various forms of avoidance and evasion in the hope of raising £2.3bn of extra revenue, rather than improving service to compliant taxpayers.

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