Business taxation

Elizabeth Small and Michael Armstrong address the issues that will be of immediate interest to anyone in the property arena

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George Osborne declared Britain 'open for business' in his budget speech on 23 March. The headline changes were the reduction of corporation tax by 2% and the doubling of the lifetime allowance for entrepreneurs' relief, both measures intended to encourage growth. The chancellor also sought to foster foreign investment in UK plc by announcing that there would be no tax charge on resident non-domiciliaries remitting foreign gains or income to invest in UK businesses. In a similar vein, he announced that UK companies would be able to elect to exempt their foreign branches from UK tax, making it easier to avoid double taxation. Further encouragement was to be had from Mr Osborne's renewed assurance that the 50% income tax rate was only a temporary measure.

However, reflecting on the estimated £42bn 'tax gap', of which about £7bn is said to be due to tax avoidance, the chancellor introduced a new anti-avoidance strategy aimed at preventing people 'using the tax law to get an advantage that Parliament never intended'. Perhaps to please his (mansion-taxing) Lib Dem colleagues, Mr Osborne also said that the government intended to find ways of ensuring that the owners of expensive property paid their 'fair share', although no further explanation of this was provided in any of the published material.

The issues most relevant to property are as follows:

'The chancellor introduced a new anti-avoidance strategy aimed at preventing people "using the tax law to get an advantage that Parliament never intended".'

Corporation tax

Corporation tax will be 26% (small company rate 20%) from 1 April 2011. Future reductions are also promised.

Entrepreneurs' relief

The life-time allowance, at which there is an effective tax rate of 10%, will be £10m from 6 April 2010. Anyone part way through a sale negotiation where this relief is available should consider delaying the exchange of contracts to 6 April 2011. It is important to note that for Capital Gains Tax purposes the time of disposal is the date the contract is entered into and not, if later, the date of the conveyance.

Capital allowances and reliefs

Capital expenditure by businesses on plant and machinery normally qualifies for tax relief, in the form of capital allowances, at the rate of 20% per year on a pooled reducing value basis.

Businesses purchasing designated energy efficient plant and machinery can instead deduct 100% of the cost of their investment in qualifying plant and machinery against profits of the period in the year of expenditure thus benefiting their cash flow. The list of technologies benefiting from this treatment will be revised and increased to include new technology-efficient hand dryers. It is intended that this change will be implemented prior to the parliamentary summer recess.

There will also be a change to the definition of 'short life asset', from four to eight years increasing the ability of businesses to accelerate their tax relief for expenditure incurred after 1 April 2011 by companies (start of the new tax year for other businesses).

Business premises renovation allowance will be extended for a further five years from 2012.

However, three of the 43 reliefs to be scrapped will be capital allowances on flat conversions, and also on safety equipment at sports grounds, in addition to land remediation relief. These three reliefs will only be abolished after 2012 and following a final consultation process.

SDLT

It had been feared that the government would seek to impose SDLT on the sale of land-rich companies. That has not happened, but the chancellor made specific reference to tax avoidance on high-value property transactions in his speech, and the government is seeking to stamp out SDLT avoidance. Draft legislation published on Budget Day is designed to tackle the use of various tax planning techniques, including schemes that use sub-sale relief and the exemptions under the Alternative Finance regime. We expect HMRC to continue closely monitoring this area.

However, a new relief will be introduced for purchasers of residential property who acquire more than one dwelling from the same vendor. The percentage at which SDLT is charged will be calculated by reference to the mean consideration, ie the aggregate consideration divided by the number of dwellings (subject to a minimum of 1%), rather than by reference to the total amount of consideration paid. Doubtless, schemes utilising this new relief are being created.

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Business rates

The threshold for empty property relief is down from £18,000 to £2,600 in England (and £2,200 in Wales) as previously announced, but the small business rate relief (SBRR) holiday will continue to 1 October 2012.

Enterprise zones

The government has announced the creation of twenty-one new enterprise zones. Eleven of these zones have already been announced in major urban areas. The Royal Docks in Newham have been chosen as the London zone by the mayor. The government is considering introducing enhanced (ie accelerated) capital allowances in those areas as well as up to 100% business rate discount for five years up to a total of £275,000.

Real Estate Investment Trusts (REITs)

The government will introduce an informal consultation process with the aim of reducing the barriers to entry and investment, as well as reducing the regulatory burden for existing and future REITs. Topics for consultation include abolition of the 2% entry charge on conversion into a REIT and allowing unlisted REITs. It is intended that the new legislation will be introduced in 2012. ■