On a Page - What the Bill doesn't cover

A number of important taxation matters will change as a result of the UK's departure from the EU and are not covered in the Omnibus Bill. Some of these are summarised on this page, together with advice on intragroup payments from other countries to the UK.

Taxation measures not dealt with in the Bill

Taxation of Corporate Groups

The Bill does not generally seek to preserve reliefs that are based in EU law, either Directives or decisions of the European Court of Justice. As such a number of important provisions will no longer apply in respect of transactions involving the UK. These include, but are not limited to, the EU Parent Subsidiary and Interest & Royalties Directives, the EU Mergers Directive, certain tax credits, including notional credits, for taxes paid in the UK.
In some instances, Irish tax legislation provides similar reliefs to double tax treaty residents, e.g. withholding taxes on dividends and interest and therefore the impact may be minimal, subject to certain conditions.

Financial Services Taxation

A number of important reliefs / tax treatments in the financial services sector that are dependent upon EU Directives or the EU residence status of counterparties have not been preserved in the Bill. These include, but are not limited to, provisions relating to the Undertakings for the Collective Investment in Transferable Securities (UCITS) Directive, the Alternative Investment Fund Managers Directive (AIFMD), the tax treatment of "specified mortgages", Irish Real Estate Funds (IREFs) and Real Estate Investment Trusts (REITs) as well as the operation of Deposit Interest Retention Tax on inter-bank payments.

Social Security

For businesses with mobile employees, it will be important to understand whether any agreement on the future relationship between the UK and the EU provides for coordination on the treatment of social security obligations.

If not, the social security treatment of employees of UK employers or UK employees of EU employers working cross-border may be complex and lead to a liability to double social security contributions.

Information exchange

Unless agreed as part of the UK's future relationship with the EU, the UK will no longer be party to EU information exchange regimes, e.g. Country by Country Reporting or EU Mandatory Disclosure. As the UK will continue to be part of OECD exchange mechanisms the impact may be minimal in relation to some matters such a Country by Country Reporting.

However for others, such as EU Mandatory Disclosure, it may necessary to file a report both with UK and EU Member State tax authorities on the same arrangement.

International Taxation considerations

Intra-group payments

In many EU countries (including but not limited to Germany, Luxembourg, Portugal and Italy) relief from withholding taxes on interest, royalties or dividends is improved by EU directives, e.g. the Parent-Subsidiary directive. Payments from entities in such countries to UK resident entities after 1 January 2021 may be subject to withholding taxes (possibly at a relatively low rate if a double tax treaty applies).

Some countries have taken steps to address these issues at a national level. For example, the UK and Austria have recently agreed conditions under which withholding tax will be relieved on dividends.

In addition, payments from UK resident entities to entities resident in EU countries may also be subject to withholding taxes in the UK, e.g. interest if the EU Interest & Royalties directive is removed from the UK statute book.

Businesses should assess now (if they have not done so already) whether this will impact them and whether they can take steps to mitigate any impact.

Additional resources

Click here to access recent Brexit webinars and our communications to you in February and June on preparing for Brexit, which remain valid

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