ALVAREZ & MARSAL TAXAND UK

THE BUDGET 2017

November 2017

ALVAREZ & MARSAL

TAXAND

COMMENTS FROM HEAD OF A&M TAXAND U.K.

In today's Autumn Budget statement the Chancellor of the Exchequer delivered up a fairly cautious set of proposals with one or two surprises thrown in for good measure. The unspectacular nature of the proposals seemed in contrast to the speech itself which was delivered to a particularly raucous House of Commons and was liberally embellished with gags and one liners.

From a big picture perspective it was confirmed that economic growth projections have been revised downwards reflecting Brexit uncertainty whilst an additional £3 billion was earmarked to prepare the U.K. for eventual departure from the European Union ("EU").

The most noteworthy giveaways included a new exemption from stamp duty land tax for first time buyers of properties. Whilst this will be a welcome measure in certain sectors, the fact that the full exemption only applies to properties worth up to £300,000 will mean that in areas such as London any positive impact could be limited. The hard-pressed retail sector also got something of a fillip in that changes to the rules on how business rates are computed have been brought forward. These measures will cost the Exchequer over £2 billion over the next five years.

The big losers from today though are non-resident landlords i.e. overseas businesses that own commercial real estate located in the U.K. and using offshore structures. In an extremely surprising move, from April 2019, any gains realised on the eventual disposal of real estate assets will now be subject to U.K. tax. Whilst this puts the U.K. on a similar footing to the other main jurisdictions, the absence of taxation for non-residents on exit has long been a sacrosanct feature of the U.K. regime which helps to attract the billions of pounds of overseas investment needed to build the offices and shopping centres of tomorrow.

Also surprising, was the absence of wide sweeping anti-avoidance measures given the recent 'Paradise Papers' leaks. The most significant anti-avoidance measure was aimed at the digital economy where a withholding tax is to be levied on royalties paid to tax havens. This move is not anticipated by the Treasury to be hugely revenue raising and therefore one can assume its application will be fairly limited.

Finally, a much discussed reduction in the VAT registration threshold did not materialise but this is an area that remains under review.

I hope you enjoy the firm's analysis and, as ever, do not hesitate to get in touch with any of the team listed towards the back of the document with any questions you may have.

David Pl

Head of Tax, A&M Taxand UK LLP

R&D Expenditure Credit ("RDEC")

- The government has announced that they will increase the RDEC, which is also known as the 'Above the Line' credit from 11% to 12%. This increase will apply to qualifying costs incurred on or after 1 January 2018.

This move will be welcomed by the 4,000 businesses that claim the RDEC and going forward should provide an average of £170 million of additional funding for innovation per year.

R&D clearance

- The government has announced that it will pilot a new advanced clearance service for RDEC to provide pre-filing agreement for three years. The new service appears to be aimed at large companies.

This is a positive measure in an area that can sometimes be a source of contention between companies and HMRC. For the first time companies will be able to obtain certainty of treatment in advance of filing claims.

Corporate interest restriction

- The government has today announced a number of technical amendments to the corporate interest restriction rules which includes:
  - derivative contracts hedging a financial trade;
  - R&D credits in the context of the group ratio calculation;
  - several changes to the infrastructure rules;
  - changes to the definition of a group to ensure asset managers do not inadvertently cause related businesses to be treated as one group; and,
  - minor administrative changes relating to amendments to tax returns.

Some of the proposed changes will be included in Finance Bill 2017/18 and the rest in Finance Bill 2018/19.

These changes are a result of continued dialogue with taxpayers and representations from industry groups. It is likely there will be further amendment to the rules in the coming months as this is not dissimilar to the period immediately after the original introduction of the Worldwide Debt Cap rules where the rules were amended a number of times as unintended consequences were identified in the way the rules were operating. Changes that make the rules work in a proportional and consistent manner are welcomed.

Hybrids

- The government has announced additional minor changes to the anti-hybrid rules that are either backdated to 1 January 2017 when the rules were first introduced or take effect from 1 January 2018. The changes include:
  - making it clear that taxes charged at a nil rate are disregarded for the purposes of the provisions;
  - ensuring capital taxes can be taken into account for the Chapters applying to financial instruments;
  - ensuring there is proportional counteraction where different shareholders treat an entity in different ways (i.e. some treat it as a hybrid and some do not);
  - including dual inclusion income within the relief under the counteraction in the imported mismatch provisions; and,
  - other minor amendments.

The changes are mainly designed to ensure the rules work in a more proportional manner and give credit for certain transactions that do not erode the tax base. The other changes are minor anti-avoidance measures to ensure the rules work as expected where no tax is being paid on receipts. Legislative detail is expected in the Finance Bill.

Capital gains on depreciatory transactions

- The time limit of six years within which a company must adjust for any depreciatory transactions (a transaction that takes value out of the shares) when claiming a capital loss on a disposal of shares has been removed. This will prevent companies waiting until after the six year time limit has passed. Thereby, claiming a loss which arose as a result of the earlier depreciatory transaction.

The removal of the six year time limit will influence capital loss planning such that companies can no longer hold onto a subsidiary that has no value for six years before claiming an overstated amount of loss relief. Companies will now need to establish the history of the subsidiary all the way back to the time of its acquisition or incorporation.

Indexation Allowance

- The government has announced that it will legislate to remove the indexation allowance from chargeable gains made by companies after 1 January 2018. For gains made after 1 January 2018 the indexation allowance applied to reduce the gain will be calculated up to December 2017.

This revenue raising measure is anticipated to raise approximately £1.8 billion of corporation tax over the next six years. This will represent an even bigger blow for non-resident real estate investors, given that capital disposals will be subject to corporation tax from April 2019.

Capital gains assets transferred to non-resident companies

- The government has announced that it will legislate to remove an unintended tax charge that can arise where a U.K. company incorporates a foreign branch and postpones the tax that would otherwise be due on the transfer of chargeable gains assets from the branch to the company. In these circumstances a future reorganisation of the group, for example the insertion of a local holding company, could trigger the tax so postponed. This is because of the substantial shareholdings exemption taking precedence over the share reorganisation rules. This will no longer be the case for disposals of shares or securities that take place on or after 22 November 2017.

This will be good news for any companies that have previously postponed tax on incorporating foreign branches and may be of real benefit to the financial industry whose members have historically organised their overseas business presences as branches.

Position paper: Corporate tax and the digital economy

- The government has published a position paper setting out how international tax rules might be reformed to ensure that U.K. corporation tax receipts from the digital economy are more commensurate with the value generated in the U.K. market. The position paper broadly sets out the government's intentions which are as follows:
  - push for reforms to the international tax rules to ensure that value created by the participation of users in certain digital businesses is recognised in determining where those businesses' profits are subject to tax;
  - pending global reform and international consensus, the government is keen to explore interim options to raise revenue from digital businesses that generate value from U.K. users. In doing so, the government will work with other countries to consider how best to achieve this objective, they will however, be willing to take unilateral action in the absence of any significant progress through multilateral discussions; and,
  - the government will take unilateral action against those businesses (mainly targeting multinational enterprises) who achieve low tax outcomes by holding their valuable intangible property in low tax countries where they have limited economic substance.

The paper essentially represents HM Treasury's U.K. specific position following feedback received on the recent OECD consultation on the same topic. It is noteworthy that they have indicated that they would be prepared to take unilateral action in tackling the tax challenges posed by the digital economy. There is of course a precedent for this in the Diverted Profits Tax ("DPT") and the government is no doubt emboldened by the £1.35 billion of DPT forecast to be collected by 2019.

Intangibles consultation

- The government has announced that it will consult in 2018 on the Intangible Fixed Asset regime. This consultation will look again at the regime, which is now more than 15 years old, consider how it encourages growth and whether there are targeted changes that can be made in response to this.

This should provide companies with the opportunity to consult on improving the tax regime for Intangible Fixed Assets. In an international environment of increasing competition for foreign direct investment, the U.K. Intangible Fixed Asset regime is often seen as the poor cousin compared to the regimes available in other jurisdictions. Improving this regime will surely be a top priority for tax policy makers in the U.K. after Brexit.

Intangible Fixed Assets

- Legislation will be introduced to clarify the tax treatment of a disposal of a company's intangible fixed assets involving non-cash consideration. The proposed revisions will confirm that the proceeds of realisation for accounting purposes should recognise the market value of any non-cash consideration, so ensuring that transactions other than for cash are treated similarly to cash transactions. It will also amend the rules in relation to licences in respect of intangible fixed assets granted between related parties. In these situations both parties will be required to account for the transaction at market value.

The proposed revisions will ensure that where a licence to use an intangible asset is granted between related parties, there will no longer be the opportunity to create an asymmetric tax treatment. This is a specific anti-avoidance measure aimed at countering tax planning that has previously exploited that asymmetry.

Royalties - withholding tax

- The government will publish a consultation on 1 December 2017 on extending withholding tax obligations to royalties paid to low tax jurisdictions in connection with sales to U.K. customers. The withholding tax is anticipated to apply from April 2019 even if the royalty is paid by a non-resident.

This measure is yet another attack on the structures employed by intellectual property rich businesses with significant sales in the U.K. but limited taxable profits - in particular those operating on-line. As well as structures already under attack from a Diverted Profits Tax ("DPT") perspective, we anticipate it will also raise revenues from structures that have escaped DPT, and businesses may want to restructure as the corporation tax will be lower than the income tax.

DTR and losses of permanent establishments

- The government will legislate to restrict double tax relief ("DTR") for companies with an overseas permanent establishment ("PE") where losses of the PE have been relieved against non-PE profits in the foreign jurisdiction. The change will take effect for accounting periods ending on or after 22 November 2017 with a transitional rule for straddling accounting periods. Going forward, DTR will only be available for an amount of foreign tax suffered by the overseas PE less the amount of the reduction in foreign tax which results from the PE's losses being relieved against non-PE profits in a foreign jurisdiction in the same or earlier periods.

Although this is an anti-avoidance measure, it is interesting to note that there are no anticipated increased tax revenues projected as a result of its implementation. This suggests that this is an issue that HMRC have spotted and blocked rather than one that is being actively exploited in an avoidance context.

Multilateral Instrument

- A number of the proposed changes under the Base Erosion and Profit Shifting ("BEPS") recommendations require changes to double tax agreements ("DTAs"). These include a number of changes to prevent treaty abuse and to improve dispute resolution. Certain minimum standards have also been agreed by participating countries. To ensure changes to DTAs are made as quickly as possible, countries including the U.K. have signed up to and will sign up to the Multilateral Instrument ("MLI"). In order for the MLI to modify U.K. DTAs, it must be given effect in U.K. law. The government has today announced proposed changes to the double tax relief legislation to allow HMRC to give full effect to the implementation of the MLI. This measure ensures that the existing powers for giving effect to DTAs in U.K. law, which have previously only been used to give effect to bilateral arrangements, can also be used to give full effect to the MLI. The proposed changes will apply from Royal Assent of the Finance Bill 2017/18.

Although 68 countries have currently signed up to the MLI, the MLI itself does not come into force until at least five countries ratify it under local law and notify the OECD depositary. This move takes the U.K. closer to being in a position to formally ratify the MLI, but it will not apply until four other countries ratify it. Even then, it will only apply to U.K. DTAs where the other country has also ratified it under their law. So although things are moving, it could still be a number of months before the MLI comes into force for any U.K. DTAs.

Accounting changes for leasing

- The government will publish two consultations on 1 December 2017 covering tax issues arising from the introduction of a new accounting standard for leasing, IFRS 16. One consultation will focus on the legislative changes that are required to ensure that the income and corporation tax rules for leased plant and machinery continue to operate as they do currently. The second consultation will evaluate options for the corporation tax treatment of lease payments under the new corporate interest restriction rules.

These consultations are timely, given that the new accounting standard will be effective from 1 January 2019.

Annual update to the Energy Technology List and First Year Tax Credits

- With effect from 1 April 2018 the government is proposing to extend First Year Allowances (“FYAs”) for five years for certain energy saving technologies. The cash credit that is currently available to loss making companies is to be reduced to two-thirds of the corporation tax rate. The government will also update the energy-saving technology list (“ETL”) that sets out the assets that qualify for this First Year Allowance (“FYA”). The availability of FYAs for zero-emission goods vehicles is also to be extended to 31 March 2021.

Since its introduction in 2001, the list has been updated annually to ensure that only the most efficient products are supported. The changes update the qualifying criteria to reflect technological advances and changes in standards. They are aligned with and support the U.K’s carbon reduction obligations.

Taxing gains made by non-residents

- The government announced that from April 2019 tax will be charged on gains made by non-residents on disposals of all types of U.K. real estate. The current charge on residential property will be extended to disposals by widely-held non-resident companies. Where a non-resident is a body corporate, such gains will be subject to corporation tax. However, for other persons, the charge will be levied as capital gains tax. A further measure will see non-residents chargeable in respect of the disposal of entities that substantially derive their value from U.K. land (in this case 'substantially' means 75% or more of the value of the asset being disposed of). Rebasing provisions will apply, such that property values will be rebased at April 2019, with the result that only gains that have accrued post-commencement will be subject to tax. There are also anti-forestalling measures that will apply from 22 November 2017, which are designed to prevent tax payers from entering into treaty shopping arrangements with a view to avoiding tax on future indirect disposals.

The announcement to tax non-residents on disposals of commercial property is a big surprise that will have a fundamental impact on the real estate sector. Whilst to a certain extent this will only serve to put the U.K. on a similar footing to other developed jurisdictions, the ability to exit investments tax free has long been a key feature of the U.K. environment. It is possible that this will have a detrimental effect on the overseas capital available to fund the assets required to accommodate the U.K's future commercial growth.

Non-resident companies' U.K. property income

- Following the consultation earlier this year, the government confirmed their intention to legislate for non-U.K resident companies to be brought into the charge to corporation tax rather than income tax as is the case at present. The government is to publish draft legislation for consultation in summer 2018 with the changes due to become law from 6 April 2020.

Most people were anticipating that these changes would be brought in much earlier than 2020. Once their rental profits are subject to the corporation tax regime, it is expected that companies will benefit from the lower rate of corporation tax which is due to be reduced to 17% in 2020. However, they will also have to contend with the hybrid mismatch rules and the corporate interest restriction – the good news is that there is now a decent window of opportunity for real estate funds to reassess their current financing and ownership structures.

Business rates

- The government is bringing forward to 1 April 2018 the planned switch to using the Consumer Price Index as the main measure of inflation when determining annual levels of business rates. There will also be retroactive legislation to address the so-called “staircase tax” which affects businesses in shared buildings who will now be able to ask the Valuation Office Agency (“VOA”) to recalculate valuations so that bills are based on previous practice. The VOA will now revalue properties every three years following the next revaluation, which is currently due in 2022.

This is good news for the hard-pressed bricks and mortar retail sector. Compared with the current approach, business rates will likely fall by around £500m per year. However, this is likely to be a short-term win: many would argue that the system needs a more fundamental reform. Ultimately, the high street operators will feel like they are losing out until the government comes up with a way to put their online competitors on a more even footing and the new tax announced today on digital businesses will only go some way towards reducing the gap.

Stamp duty land tax relief for first-time buyers

- Applicable to first-time buyers only with effect from 22 November 2017, Stamp Duty Land tax (“SDLT”) is abolished for homes up to £300,000 and on the first £300,000 for properties costing £500,000 or less (SDLT at 5% will be due on any amounts above £300,000). The relief applies to the purchase of single dwellings only and the purchaser must occupy the home as their main residence.

A first-time buyer spending £500,000 could save £5,000 in SDLT. Although this measure will help a number of first-time buyers get onto the housing ladder, the stamp duty saving is expected to be insignificant compared to other barriers associated with purchasing a property (such as raising the deposit).

SDLT changes to filing and payment process

- SDLT returns and payment of the tax are currently due 30 days from the effective date of the transaction. The government has confirmed that proposed changes to reduce the filing and payment window to 14 days will now apply to land transactions, with an effective date on or after 1 March 2019. Legislation is expected next year in the 2018/19 Finance Bill. There are also proposals to improve the SDLT return to make compliance with the new time limit easier.

A number of taxpayers currently struggle to meet the 30 day deadline and it is particularly complex when considering whether or when substantial performance may have occurred. Reducing the time limit will further add to the pressure of concluding and means it is more likely taxpayers will miss the deadlines.

Profit fragmentation

- The government will consult on measures to prevent U.K. traders or professionals from arranging for U.K. trading income to be booked in unrelated entities. This will include arrangements where profits accumulate offshore and thus profits arising from the activities of a U.K. trade may not be taxed.

These measures appear to be aimed at individuals employing low substance structures that would be caught by transfer pricing and DPT had the arrangement involved connected companies.

Tackling disguised remuneration

- The government is continuing to implement law to tackle schemes providing remuneration to employees without a charge to income tax. The Finance Act 2018 will contain measures previously consulted on to introduce a close companies' gateway and require individuals to inform HMRC if they have received a disguised remuneration loan. There are also two changes to ensure law included in Finance (No.2) Act 2017 operates as intended.

These measures are simply the latest in the government's crusade to crack down on avoidance in this area and participators in the schemes will have been aware of most of these changes since September.

Extension of time limits for offshore non-compliance

- Currently the time limits for HMRC being able to raise assessments in relation to tax are the same for both onshore and offshore non-compliance. The current time limits are usually four, six or twenty years depending on the behaviour that led to the non-compliance. The government has announced the time limits will be extended to at least twelve years, whatever the behaviour, for offshores cases to give more time to investigate offshore non-compliance. Where there is deliberate behaviour, the time limit for both onshore and offshore cases remains twenty years. The government will consult on the matter in Spring 2018.

HMRC will now be able to assess at least twelve years of back taxes without needing to establish deliberate non-compliance. This is just another tool for targeting offshore tax avoidance and non-compliance as this is an area that has received, and will continue to receive, much focus from HMRC.

OTHER MEASURES

Insolvencies

- A discussion document on insolvency and “phoenixism” risks will be published in 2018. This is aimed at tackling a small minority of taxpayers and insolvency practitioners who abuse the insolvency regime to avoid or minimise their tax liability. This usually applies to VAT and payroll taxes and on occasion can extend to Corporation Tax.
- In a separate measure there is a change expected in the 2018/19 Finance Bill which will extend the security deposit legislation to Corporation Tax and the Construction Industry Scheme. The security deposit legislation currently applies to VAT and permits HMRC to require security for future tax liabilities in the form of a payment or bank guarantee. In an insolvency situation, it is generally enforced where directors or management of a company establish a new company to buy the trade and assets of an insolvent company and the same individuals were involved in the operation of the insolvent business, which has left an unpaid tax liability with HMRC.

In an Administration there are many legitimate cases where some of the trade and assets of the business will be sold to a purchaser by the Administrator immediately on their appointment. The buyer will then operate some or part of the business post sale commonly known as a “pre-pack”. However there are less legitimate cases where traders will run a business into the ground and an Administrator will subsequently sell the trade and assets to the same trader or a party connected with the trader who will then effectively carry on the same business (in some cases with a very similar name) having left HMRC with unpaid taxes and suppliers with unpaid bills. We hope that HMRC will consult with the ICAEW, R3 and responsible insolvency practitioners so that legitimate insolvencies are not prejudiced by any steps taken to tackle the small number who abuse the insolvency regime.

Stamp Duty and Stamp Duty Reserve Tax

- Following an EU court judgement and a subsequent First Tier tribunal judgement HMRC accepts that the Stamp Duty and Stamp Duty Reserve Tax (“SDRT”) 1.5% charge on the issue of shares (and transfers integral to capital raising) into overseas clearance services and depositary receipt issuers is incompatible with the Capital Duty Directive. The government has confirmed that when the U.K. leaves the EU it will continue not applying these charges.

This is welcome confirmation from the government that these charges will not be brought back into play as a result of Brexit.

Combating online VAT fraud

- The government will legislate in the Finance Bill 2017/18 to extend the scope of the existing joint and several liability ("JSL") rules to hold online marketplaces jointly and severally liable for:
  - any future VAT that a U.K. business selling goods via the online marketplace fails to account for after HMRC has issued a notice to the online marketplace, ensuring that all sellers are in scope; and,
  - any VAT that a non-U.K business selling goods via the online marketplace fails to account for, where the business was not registered for VAT in the U.K. and that online marketplace knew or should have known that that business should be registered for VAT in the U.K.
- These requirements will be supported by a regulatory penalty and in order to reduce the risk of online sellers using a fake VAT number or someone else's VAT number, online marketplaces will be required to ensure VAT numbers which are displayed are valid.
- A full consultation is anticipated in 2018 in relation to split payments for online payments. A split payment model would allow VAT paid by customers online to be extracted in real time. The complexity of implementation would be significant but it is anticipated that this would also help in the fight to reduce online VAT fraud.

In 2016 14.5% of U.K. retail sales were online and of these, half were via online marketplaces. HMRC were heavily criticised by U.K. based traders for failing to collect and enforce the payment of VAT by non-EU traders committing VAT fraud or failing to register for VAT. This failure to act gave non-EU traders a significant market advantage. In September 2016, HMRC were given powers to make online marketplaces JSL for VAT not paid by non-EU traders and this seems to have been a success. The extension of powers in the proposed legislation means that online marketplaces will have JSL for U.K. businesses and not just overseas businesses. It also extends the JSL to situations where the online marketplace should have known that a non-U.K. business should have been registered for VAT in the U.K. Given the VAT registration threshold for non-U.K. businesses is zero, this measure would mean that it would apply to all non-U.K. businesses selling taxable goods online via a market place.

VAT registration threshold

- Despite speculation in advance of the Budget, the Chancellor announced that the VAT registration threshold will remain at £85,000 and there will be no changes for two years from April 2018. The VAT registration threshold remains the highest in the EU. The Office of Tax Simplification ("OTS") report, which was published on 7 November 2017, recognises that such a high VAT registration threshold causes distortions between businesses which have to charge VAT and those which do not. It also highlighted that it drives certain behaviours, which result in businesses (mainly sole traders) keeping their operations below the VAT registration thresholds and discourages growth. With that in mind, the government has responded to the OTS confirming that it will consult on the design of the VAT registration threshold during the two year period ending 31 March 2020.

Maintaining the current VAT registration threshold at £85,000 until 31 March 2020 is a safe play and should, in theory, make life easier for the three million businesses who fall under that threshold. This is likely to be a temporary situation subject to the proposed consultation. The OTS report highlighted the divergence in opinion on the best approach to the VAT registration threshold. We can only hope that government will take heed of the OTS observation that most proposals to remove that cliff-edge position caused by the high VAT registration threshold involve more complex VAT accounting, making VAT registration and compliance more costly and time-consuming for those businesses bordering on the threshold.

VAT consultations

A number of consultations were either confirmed or announced in this Budget:

VAT grouping

- A summary of responses is to be published on 1 December 2017 following this year's consultation around the scope of VAT grouping in the U.K.

Construction industry consultation

- A summary of responses to the construction industry consultation is also expected on 1 December 2017. It is expected that measures will be introduced so that VAT is not charged on invoices issued within construction industry supply chains and only charged to the final consumer. Each party in the supply chain will be expected to apply the reverse charge instead. This measure is an attempt to combat fraud within the construction industry for both VAT and the Construction Industry Scheme ("CIS") and follows a number of significant VAT cases won by HMRC. Given the interaction between CIS and VAT, which already complicates tax accounting for the construction industry, guidance is expected to be published along with the legislation by October 2018.

Vouchers

- The VAT treatment of vouchers is complicated, with some vouchers attracting VAT on their sale and some on their redemption. The use and application of vouchers has evolved at high speed over the past few years and VAT legislation has struggled to keep up. The retail sector should welcome the consultation paper to be published in December 2017 with anticipated changes to the VAT treatment unusually on 1 January 2019.

VAT on imports

- Many companies importing into the U.K. apply postponed accounting for VAT when they import goods into the U.K. This generally allows for import VAT payments to be deferred by up to 45 days and the process allows for imports to be cleared quickly. All goods arriving in the U.K. post 29 March 2019 are likely to be considered imports (subject to what can be agreed with the EU). Businesses are very keen to understand what facilities and easements will be put in place so that imports are not hindered. While no formal consultation has been announced, the government has said they will take this into account.

INDIRECT TAX - DUTIES

Vehicle related duties

- With effect from April 2019, zero-emission capable taxis will be exempted from the Vehicle Excise duty supplement which applies to expensive cars. Rates of HGV vehicle excise duty and levy are frozen for the tax year 2018/19. Fuel duty rates also remain frozen for the same tax year. Government will review whether existing fuel duty rates should applied to alternatives to diesel and petrol.

Air Passenger Duty

- Air Passenger Duty is set to rise for long-haul flights for those in premium economy, business and first class seats as well as those on private jets. The long-haul standard (airline) rate will rise to £172 and the long-haul higher (i.e. private jet) rate will rise to £515 on and after 1 April 2019. Short haul rates, and the long haul reduced rate for economy passengers will be frozen at the tax year 2018/19 levels. Additional revenue of £25 million per annum is expected to be generated from this move.

Legislative changes

- A number of measures affecting Enterprise Investment Scheme (“EIS”), Seed Enterprise Investment Scheme (“SEIS”) and Venture Capital Trust (“VCT”) schemes were announced today. Key changes include the following and will be effective from 6 April 2018 unless otherwise stated:
  - Increase in the annual EIS limit for individual investment in Knowledge Intensive Companies (“KICs”) from £1 million to £2 million provided investment above £1 million is in KICs. The annual EIS and VCT limit on tax advantaged investments that a KIC can receive will be doubled to £10 million. The lifetime limit will remain unchanged at £20 million. There will also be more flexibility on the permitted maximum age requirement involving the date when the KICs turnover exceeded £200,000 instead of the date of the first commercial sale.
  - A new condition is to be introduced in the EIS, SEIS and VCT rules. This will require the company being invested in to have a growth and development objective and bear a significant risk of loss of the capital invested. This will be a principles - based test to determine, if at the time of the investment, the company is a genuine entrepreneurial company. Draft guidance is expected to be published with the Finance Bill. The measure is aimed at countering the availability of these schemes for tax motivated investments with limited risk involved.
  - Relaxation of an anti-avoidance rule where income tax relief is restricted when an individual sells and buys shares in the same VCT within a six month period or buys shares in another VCT within a six month period where the two VCTs subsequently merge. The time limit will be extended to two years. In addition, where less than two years, the rule should not apply where the individual could not have been expected to be aware of the proposed merger. It will also not apply where obtaining a tax advantage is not one of the main purposes of the merger. This change applies in respect of VCT shares issued on or after 6 April 2014.
  - Amendment to the definition of “Relevant Investment” for EIS, VCT and Social Investment Tax Relief (“SITR”) to ensure all risk based investments made before 2012 are also included towards the lifetime funding limit of £12 million (or £20 million for KICs). This change will apply from 1 December 2017.
  - Finally, a number of changes to VCTs designed to take effect from 6 April 2018, date of Royal Assent and 6 April 2019 to ensure that VCTs continue to focus on long term investment in higher risk companies that intend to grow and develop. These include doubling the time VCTs have to reinvest gains from six months to twelve months, requiring 30% of funds raised to be invested in qualifying holdings within twelve months after the accounting period end. There will also be an increase in the proportion of VCT funds in qualifying holdings, from 70% to 80%.

Legislative changes continued…

- The government will also publish its response to the "tax advantaged venture capital schemes – streamlining the advance assurance service" consultation on 1 December 2017. In addition, the government will consult on a new knowledge intensive EIS fund structure in 2018.

The proposed changes aim to encourage further investment in high growth potential companies in the U.K. which is a key focus for government. The government has been informed by the recent Patient Capital Review which considered the challenges on the availability of long term finance for entrepreneurial U.K. businesses and has sought to partly address some of the concerns raised. No doubt there will be further changes introduced in the coming years in this area as the post Brexit economy takes shape. The proposed changes also seek to tidy up some of the existing rules so that existing investment scheme tax legislation works the way it was intended.

CONTACT US

To discuss how A&M might provide assistance, please contact any of the following:

David Pert
Managing Director, Head of Tax
Tel: +44 (0) 207 715 5208
Mobile: +44 (0) 7946 442 809
dpert@alvarezandmarsal.com

Kevin Hindley
Managing Director, Corporate and International Tax
Tel: +44 (0) 207 715 5235
Mobile: +44 (0) 7939 468 157
khindley@alvarezandmarsal.com

Jonathan Hornby
Managing Director, Corporate and International Tax
Tel: +44 (0) 207 715 5255
Mobile: +44 (0) 7808 054 052
jhornby@alvarezandmarsal.com

Tom McFarlane
Managing Director, Transfer Pricing and Business Restructuring
Tel: +44 (0) 207 072 3201
Mobile: +44 (0) 7876 790 163
tmcfarlane@alvarezandmarsal.com

Richard Syratt
Managing Director, International Tax and Transfer Pricing
Tel: +44 (0) 207 863 4722
Mobile: +44 (0) 7796 336 101
rsyratt@alvarezandmarsal.com

Ian Fleming
Managing Director, Transaction Tax
Tel: +44 (0) 207 663 0425
Mobile: +44 (0) 7947 938 907
ifleming@alvarezandmarsal.com

Marcus Nicolaou
Senior Director, Corporate and International Tax
Tel: +44 (0) 207 715 5222
Mobile: +44 (0) 7946 185 770
mnicolaou@alvarezandmarsal.com

Mairéad Warren de Búrca
Managing Director, Indirect Taxes
Tel: +44 (0) 207 863 4785
Mobile: +44 (0) 7392 091 863
mwarrendeburca@alvarezandmarsal.com

Dafydd Williams
Managing Director, Transaction Tax
Tel: +44 (0) 207 072 3215
Mobile: +44 (0) 7506 176 416
dwilliams@alvarezandmarsal.com

Claire Lambert
Senior Director, Corporate and International Tax
Tel: +44 (0) 207 072 3285
Mobile: +44 (0) 7583 553 544
clambert@alvarezandmarsal.com

Simon Gore
Senior Director, Transaction Tax
Tel: +44 (0) 207 072 3211
Mobile: +44 (0) 7533 587 764
sgore@alvarezandmarsal.com

Jagdip Bharij
Senior Director, Transaction Tax
Tel: +44 (0) 207 663 0793
Mobile: +44 (0) 7534 189 233
jbharij@alvarezandmarsal.com

Deyan Mollov
Senior Director, Transfer Pricing
Tel: +44 (0) 207 863 4790
Mobile: +44 (0) 7387 022 896
dmollov@alvarezandmarsal.com

Disclaimer

This newsletter is not intended or written by Alvarez & Marsal Taxand UK LLP to be used, and cannot be used, by a client or any other person or entity for the purpose of avoiding tax penalties that may be imposed on any taxpayer. Readers should not consider this document to be a recommendation to undertake any tax position, nor consider the information contained therein to be complete, and should thoroughly evaluate their specific facts and circumstances and obtain the advice and assistance of qualified tax advisors.

Taxand is a global organisation of tax advisory firms. Each firm in each country is a separate and independent legal entity responsible for delivering client services.

In the U.K., Alvarez & Marsal Taxand UK LLP is the member firm of Taxand and services are provided by Alvarez & Marsal Taxand UK LLP.

Alvarez & Marsal Taxand UK LLP is a limited liability partnership registered in England and Wales with registered number OC332081. A list of members' names is available for inspection at 1st Floor, 1 Finsbury Circus, London EC2M 7EB, United Kingdom, the firm's principal place of business. The firm’s registered office is Tower Bridge House, St Katharine’s Way, London, E1W 1DD.

ABOUT ALVAREZ & MARSAL

Companies, investors and government entities around the world turn to Alvarez & Marsal (A&M) when conventional approaches are not enough to make change and achieve results. Privately held since its founding in 1983, A&M is a leading global professional services firm that provides advisory, business performance improvement and turnaround management services.

With over 3000 people across four continents, we deliver tangible results for corporates, boards, private equity firms, law firms and government agencies facing complex challenges. Our senior leaders, and their teams, help organizations transform operations, catapult growth and accelerate results through decisive action. Comprised of experienced operators, world-class consultants, former regulators and industry authorities, A&M leverages its restructuring heritage to turn change into a strategic business asset, manage risk and unlock value at every stage of growth.

Follow A&M on:

When action matters, find us at: **www.alvarezandmarsal.com**