Scanning horizons

General Features

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Bill Dodwell brings us up to date on what's happening with the Summer Finance Bill

'Where's the Summer Finance Bill?' was the frequent cry of tax advisers, wondering whether five hundred pages of legislation were going to return after the June General Election. It turned out that the new ministers at the Treasury needed time to absorb its provisions and make decisions on how to take it forward. On 13 July, new Financial Secretary Mel Stride announced that the Bill would be introduced in the House of Commons after the summer recess. The House of Commons returns on 5 September and a day later the provisional order of business sets out a 'Motion to approve Ways and Means Resolutions on the forthcoming Finance Bill', following Prime Minister's Questions. No doubt we should expect the Bill to be published that afternoon.

The Bill’s timetable will be affected by the break for the party conferences. It is likely that the second reading of the Bill will take place before that break. The Commons then return on 9 October, and we should then expect the committee of the Whole House (where clauses selected by the Opposition are debated on the floor of the House). The Public Bill committee will no doubt start on 17 October and the Bill may return for the Report Stage and Third Reading by the end of the month. After the single day debate in the House of Lords we might expect Royal Assent by the middle of November – perhaps just before the Autumn Budget. We need to remember that the Commons breaks for half term from 7-12 November and Royal Assent is only possible whilst the Commons is sitting.

The Financial Secretary’s statement made it clear that the whole Bill will return, with the same effective dates. The 49 Ways and Means resolutions include 26 with retrospective effect. The list from HMRC expands this to 34 detailed measures.

The Bill will bring significant measures in a wide range of areas. The two that will raise most money are corporate measures to limit the deductibility of interest and other financing costs and measures to change the treatment of corporate losses. Both these measures affect only large companies; the loss restrictions apply only in years where a group has more than £5 million of profits and the interest limits have a £2 million de minimis. They are expected to raise about £1.8 billion pa, once fully in effect. Changes have been announced to both measures since the original version of the Bill was published in March. The loss relief rules have several important changes, mainly to remove restrictions not originally intended. It is intended that the loss relief restrictions will not adversely impact an insurers regulatory capital, or that oil and gas companies face restrictions due to the way their rules work. There are also changes to make the anti-avoidance work as intended for those sectors and property companies, as well as some technical changes. Companies will need to reflect these changes when making instalment payments but accounting isn’t straightforward. Companies with 30 June or 30 September year-ends will need to prepare financial statements without the benefit of substantively enacted law (or enacted law, under US GAAP). It may seem strange to omit a material tax change from the profit and loss account but the rules do not allow it. Instead, if material additional current or deferred tax as a result of the intended changes would need to be disclosed as a post balance sheet event.

There will be some relief that significant liberalisation to the substantial shareholdings exemption will apply to disposals from 1 April 2017. Removing the restrictions for investors simplifies the relief, whilst keeping it focussed on the sale of trading companies. Again, accounting may require provision for a tax charge that won’t materialise.

There are three changes to the Hybrid Mismatch rules. Two changes apply from 1 January 2017 (when the regime started) and were announced at the 2016 autumn statement. These disregard amortisation in assessing whether a mismatch arises and remove the need for certain claims. The third change applies from 13 July 2017 and provides that state and local taxes are not treated as foreign taxes for the purposes of the regime. This may affect some US and Swiss hybrids, where state or cantonal tax applied but not federal tax. HMRC had – unconvincingly – argued in their guidance that such taxes were not treated as tax under the original provisions. Many doubted their logic and it seems HMRC too have had second thoughts, leading to the legislative change.

The deemed domicile rules will be introduced from 6 April 2017, accompanied by a long list of technical changes, albeit none of major principle. The CIOT pointed out that a delay to the introduction of the measure could adversely impact some who had rearranged their affairs to comply with the new rules.

The final measure where drafting changes have been made is the new charge on outstanding loans from disguised remuneration schemes. This will apply to loans made after 5 April 1999 that are outstanding on 5 April 2019. It will be interesting to see where the Supreme Court’s recent decision in the Rangers employee benefit trust case makes these changes less relevant.

Bring on the Bill!