WRITTEN MINISTERIAL STATEMENT

Draft Legislation for Finance Bill 2013: Measures with Effect on 11 December

The Exchequer Secretary to the Treasury (David Gauke): The Government is announcing today measures that will have effect from 11 December 2012 or shortly afterwards and will be included in Finance Bill 2013.

Further details have today been published on both the HM Treasury and on HM Revenues & Customs (HMRC) websites, together with the draft legislation and Tax Information and Impact Notes.

The following measures will take effect from today:

Debt cap: Group treasury company election

Legislation will be introduced to ensure that only the financing expenses and financing income related to treasury activities are included in the election. If a company's activities are all or substantially all treasury activities and its assets and liabilities relate to those treasury activities then its financing income and financing expenses can be included in the election. If a company's treasury activities are not all of its activities then the election will only apply to its financing expenses and financing income that relate to the treasury activities.

The legislation amends section 316 Taxation (International and Other Provisions) Act 2010 and will take effect for periods of account of the worldwide group beginning on or after 11 December 2012.

Corporation Tax: Deferral of payment of exit charges

The Government is amending legislation to address the way in which HMRC collects corporation tax charges levied on unrealised profits or gains when a UK resident company that is registered in a European Economic Area (EEA) territory transfers its place of effective management to another EEA State (often described as an "exit charge"). This follows a decision by the Court of Justice of the European Union. The amendment will offer such companies the option to defer payment of the exit charge over a period of time provided that certain conditions are met. The change is intended to protect public finances, support businesses with cash-flow issues, and ensure UK law remains compatible with EU law.

The legislation will have effect to permit companies to submit claims for deferral of exit charges that fall due from 11 December onwards.

VAT forestalling road fuel

Draft legislation sets out the Government's intention to impose an open market value (OMV) on supplies of road fuel made by taxpayers to employees and other connected persons where fuel is supplied at less than the OMV.

The draft legislation will apply from 11 December. However until the date of Royal Assent to Finance Bill 2013 affected taxpayers should declare output tax according to the invoiced value. After Royal Assent, to the extent that the amount charged is less than OMV and any part of the fuel has not yet been made available, these amounts will become incorrect and taxpayers will need to correct the under declaration of output tax in the usual way. How to make corrections is explained in Notice 700/45, which is available on the HMRC website.

In addition, the following measures will come into effect on 1 January 2013 and will be included in Finance Bill 2013:

Annual investment allowance (AIA)

To encourage investment and exports as a route to a more balanced economy, the Chancellor announced on 5 December 2012 a temporary increase to the AIA to support investment in the economy.

Legislation will be introduced to temporarily increase the AIA limit on qualifying expenditure that effectively receives 100 per cent relief from £25,000 to £250,000. The AIA is available to most businesses, regardless of size. The increase in the AIA will apply to qualifying expenditure incurred between 1 January 2013 and 31 December 2014. This measure supports investment by accelerating the rate of relief on investment in qualifying assets.

Bank Levy

The Government has set out its intention that the Bank Levy should raise at least £2½ billion each year. The full Bank Levy rate will increase from 0.105 per cent to 0.130 per cent from 1 January 2013 to restore expected yield for future years and to offset the benefit of corporation tax rate cuts to banks. The half rate for chargeable equity and long term chargeable liabilities will be increased from 0.0525 per cent to 0.065 per cent.

UK Swiss Remittance basis

Legislation will be introduced to ensure that, where levies are made under the terms of the Swiss UK Tax Cooperation Agreement, those levies are not treated as remittances for UK tax purposes. To ensure that policy objectives behind the original agreement are delivered in full, this legislation will be effective from 1 January 2013, which is the date that the agreement is expected to come into force.

Amendments to Controlled Foreign Companies (CFC) rules

The Government is introducing legislation to prevent a potential loss of tax by amending the new CFC rules and limiting double taxation relief (DTR) in order to close avoidance and planning opportunities. In line with the new CFC rules the legislation will affect CFCs with accounting periods beginning on or after 1 January 2013.

Part 9A Taxation (International and Other Provisions) Act 2010 (TIOPA) will be amended to ensure that the new CFC rules apply to profits from all finance leases, including those made by way of a hire purchase or similar contract.

Part 9A TIOPA will also be amended to ensure that throughout the new CFC rules, questions of accounting treatment where accounts have not been prepared under either UK generally accepted accounting practice or international accounting standards are considered by reference to international accounting standards.

Part 2 TIOPA will be amended to limit the amount of DTR that can be claimed as a credit by a UK company or given by deduction to a UK company. The limitation will apply when one or more UK companies form part of an arrangement whereby a loan is made from one CFC to another CFC, where the latter is the ultimate debtor in relation to that loan. Where one or more UK companies form part of a conduit in such an arrangement the DTR will be limited to the corporation tax due in respect of the UK corporation tax profits that arise from that arrangement. The new limitation will apply to a UK company that derives profits from such an arrangement which involves CFCs with accounting periods beginning on or after 1 January 2013.

In addition the Government is introducing legislation to amend section 236(4) TIOPA with effect from 1 January 2013 to ensure the arbitrage rules do not apply merely as a result of the application of another territory's CFC rules that are similar to those within Part 9A TIOPA.

The Government has also tabled related written statement today:

- Draft Legislation for Finance Bill 2013 and Tax Policy Update.

HM Treasury
11 December 2012