Finance Bill 2023-24 Briefings: corporate taxes

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CIOT and ATT submitted briefings to parliamentarians ahead of the Committee of Whole House debate on corporate tax provisions in the Finance Bill. These covered permanent full expensing, research and development and amendments to the UK's Pillar Two rules.

Clause 1: Permanent full expensing, etc. for expenditure on plant or machinery

CIOT welcomed the introduction of permanent full expensing, which is a welcome simplification of the business tax system. However, it is not as beneficial as it might at first appear due to limitations – such as only applying to expenditure on plant and machinery, and only applying to corporates – meaning that large unincorporated businesses (such as farming partnerships) cannot benefit from it.

However, following discussions with the CIOT, HMRC have made some changes to the Capital Allowances manuals to confirm their view that partnerships with corporate partners are able to claim capital allowances that are only available to companies within the charge to corporation tax, including first year allowances such as full expensing (and the super deduction). These changes, made in January 2024, are mainly in CA11145 (tinyurl.com/3d75y83e), but some additional text has also been added to the super-deduction guidance atCA23163 (tinyurl.com/5dx4d72x).

This point was clarified by the Financial Secretary to the Treasury, who said the following in the Finance Bill debate (see columns 349 – 350, our **emphasis**): 'The hon. Member for Ealing North also mentioned partnerships; a **corporate partner is eligible for full expensing**, but an unincorporated partner is not. Again, the annual investment allowance of £1 million covers the investment needs of almost all unincorporated partnerships' (tinyurl.com/4dczbw3r).

Claims made via the partnership's corporation tax computation will benefit the corporate partners of the partnership in proportion to their share of partnership profits, but partners who are subject to income tax will not obtain a benefit.

ATT agreed that making full expensing a permanent measure would bring welcome certainty to those large companies that benefit from it. However, ATT also noted that full expensing would provide no benefit to the 99% of companies whose capital expenditure is already fully relieved under the annual investment allowance.

ATT suggested that more focus is required on the needs of smaller businesses, including how the capital allowances rules could be simplified.

Both CIOT and ATT noted that the Autumn Statement announced that there would be some further consultations in relation to capital allowances, but are disappointed that these will be limited in scope, ruling out substantive reform.

Clause 2: New regime for research and development carried out by companies

CIOT said that, although we support in principle the concept of a new merged research and development (R&D) scheme, which would be a simplification to the UK

tax code, that is not what is happening with the current proposals. The new rules will still leave two R&D tax relief schemes in the UK. CIOT noted particular concerns around the treatment of subcontracting within the new merged scheme and suggested some amendments that could provide clarification around this. We also cautioned that rushing in the new merged scheme would bring problems both for taxpayers and for HMRC and risks undermining the policy aims of encouraging innovation and growth through R&D investment.

ATT agreed and said that the new merged scheme should be postponed until at least April 2025 to ensure that it can be delivered successfully. ATT also suggested that the additional support for loss making, R&D intensive small and medium sized enterprises (SMEs) should be incorporated into the new merged regime, and not operated as a standalone scheme, as is currently proposed. ATT also said that the reduction in the threshold for a company tobe considered R&D intensive that was announced at the Autumn Statement should be backdated to April 2023.

Clause 21 and Schedule 12: Pillar Two

The multinational top-up tax and domestic top-up tax were introduced by Finance (No 2) Act 2023 as the first tranche of implementation by the UK of the agreed G20-OECD Pillar Two framework. It was envisaged that additional law and significant additional guidance will be required to supplement this tranche as negotiations were, and are still, continuing at the OECD on many technical and interpretive issues (the ‘Implementation Framework’), as well as mechanisms for qualifying each country’s implementation for the purpose of other implementing countries’ rules.

Clause 21 of and Schedule 12 to the Finance Bill make changes to the multinational top-up tax and domestic top-up tax, to ensure that these new taxes work as intended and comply with the global anti-base erosion rules, commentary and administrative guidance agreed and issued by the Inclusive Framework.

CIOT’s briefing said that we are supportive of these changes, which have generally come from consultation with stakeholders. However, we also noted that the new top-up taxes are complicated and will be burdensome.

The CIOT’s briefing on all of these clauses can be found here: www.tax.org.uk/ref1275

The ATT’s briefing on full expensing can be found here: www.att.org.uk/ref446

The ATT’s briefing on R&D can be found here: www.att.org.uk/ref447

These clauses were discussed by the Committee of the Whole House on 10January 2024 and CIOT’s blog on the debate can be found here: www.tax.org.uk/fbdebate

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