

Newsalert

International Tax Services – European Tax

United Kingdom

June 26, 2009

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This Newsalert does not provide a comprehensive or complete statement of the taxation law of the countries concerned. It is intended only to highlight general issues which may be of interest to our clients.

For issues relating to this news alert please contact your local international tax services advisor or the specialists listed at the end of this article.

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Solicitation

Reform of UK Controlled Foreign Companies regime - stakeholder engagement

The UK is currently in the process of reforming the way in which foreign profits of UK companies are taxed. Following changes to the taxation of dividends, interest deductions and reporting under Treasury Consent in Finance Bill 2009, the focus is now turning to a review of the UK's Controlled Foreign Companies ("CFC") regime.

HM Treasury has begun a consultation exercise in respect of CFC modernization and has invited businesses with UK holding structures and other key stakeholders to participate. Any ultimate changes from this process are anticipated to come into law in 2011.

Background

As set out in previous NewsAlerts, draft legislation is currently before UK Parliament and will introduce a package of reforms in respect of the taxation of foreign profits, including a dividend exemption regime from July 1, 2009 and a new 'debt cap' restriction for periods of account beginning on or after January 1, 2010. Whilst the reform of the UK's CFC rules was originally intended to be part of the package enacted this year, agreeing the shape of those rules with UK business proved to be more difficult than anticipated. As a consequence, only minor amendments to the CFC rules were included in Finance Bill 2009 and full reform of the CFC regime was put on hold pending further consultation. On June 22, 2009, HM Treasury published a 'Stakeholder engagement strategy' paper setting out their proposed approach to further consultation on the CFC regime.

Included in the strategy paper is the UK Government's view that a CFC regime is required to prevent abuse; however, it is acknowledged that UK competitiveness should not be compromised. A consultation process has therefore begun and the form of the new CFC regime remains very much open for debate. In particular, no decision has been made as to whether to introduce an income, an entity or some form of hybrid system. Various options will be evaluated on the basis of the stated objective of maintaining the UK's international competitiveness, whilst protecting the UK tax base.

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Stakeholder engagement plan

HM Treasury has published the intended timetable for reforming the CFC regime as set out below:

Summer 2009 - Phase 1

Information gathering (liaison committee meeting, the issuance of policy principles, business questionnaires, industry workshops/working groups)

Autumn/Winter 2009 - Phase 2

Formulation of policy options (open days to present objectives and policy options, further working groups, publication of public document)

2009/2010 - Phase 3

Consideration of industry specific principles within wider reform

2010 - Phase 4

Formulation of detailed proposals and release of draft legislation; further consultation

It is anticipated that any changes to the legislation will then be introduced as part of Finance Bill 2011.

The Government has stated that business views and ideas are welcome at any stage in the process and PwC has and will be making representations. However, it will undoubtedly be harder to influence the fundamental approach of HM Treasury once policy has been developed (expected around December 2009). Affected businesses are therefore encouraged to participate from the outset in this consultation process.

For more detailed information, please do not hesitate to contact your UK team in New York:

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