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SPRING BUDGET 2020 – HOW DOES IT IMPACT ON REAL ESTATE?

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SUMMARY

In contrast to recent years it has been a quiet Budget for real estate tax. In particular, there was no big announcement of any further levelling of the playing field between resident and non-resident investors in UK land: there was no mention of SDLT on acquisitions of UK property rich entities.

Funds review

The most interesting announcement on real estate is for the funds sector. The government is consulting on how to (and indeed whether to) introduce a regime to encourage real estate (and other targeted) funds to hold their assets through the UK. This is focused on intermediate entities within funds structures, such as the JPUT, which could be a UK entity instead. It is part of a wider review of the UK funds regime during 2020.

SDLT surcharge for non-resident buyers (residential land)

As announced before there will be an SDLT surcharge for corporate and individual non-resident buyers of UK residential property to help tackle rough sleeping. Rather than the proposed 3% it will be at 2% and it won't be introduced until 1 April 2021. Where contracts are exchanged before 11 March 2020 but complete or are substantially performed after 1 April 2021, transitional rules may apply subject to conditions. The government will shortly publish a summary of responses to the consultation, so we should have more detail then. It is hoped that large acquisitions involving 6 or more residential units would usually be subject to the commercial rates of SDLT with the consequence that the surcharge does not apply in practice to such acqusitions.

Structures and building allowances to increase to 3%

Structures and buildings allowances will be increased from 2 to 3% with effect from 1 April 2020 for corporation taxpayers and 6 April 2020 for income taxpayers. By way of reminder these are capital allowances for capital expenditure on the construction, renovation or conversion of non-residential structures and buildings and are available for expenditure incurred on or after 29 October 2018 (provided the construction contract was not entered into before that date). They are claimed on a straight line basis and the remainder of the allowances can be passed onto a buyer as long as certain conditions are met. A number of technical changes to the regime will be included in Finance Bill 2020 as well – draft legislation has been published already. It is a shame that the opportunity has not been taken to extend the relief to the residential sector to incentivise house building to meet the Prime Minister's target of a million new homes by the end of the Parliament.

Business rate review – a land value tax in the longer term?

There was nothing said directly on a land value tax, although a fundamental review of business rates was announced. Part of the scope of that review will be consideration of more fundamental changes in the medium to long term. This will include, amongst other issues, who pays the tax and exploring alternatives to business rates, "particularly within the taxation of land and property". It is likely then that a land value tax will be considered in light of the Chancellor's reported comments to *The Times* in February, when he explicitly mentioned a land value tax. If a land value tax is introduced, landlords and tenants will be reaching for their leases to see whether landlords are able to pass this tax onto their tenants.

Restriction on carry forward capital losses

The government has confirmed again that it will extend the existing restriction on a company's ability to carry forward income losses to capital losses. For chargeable gains accruing from 1 April 2020 a company within the scope of corporation tax will only be able to offset up to 50% of net chargeable gains using carried forward capital losses. This is subject to the ability to carry forward up to £5m (in aggregate) of income and capital losses per year across a group unrestricted. Following consultation, the government will exclude certain companies in liquidation from the restriction. The introduction of the restriction is likely to impact disproportionately on the real estate sector which does not generate capital gains as frequently as income profit and therefore in many cases relies upon the carry forward of capital losses to mitigate tax.

Non-resident landlords coming within the scope of corporation tax

The rules extending the corporation tax to non-resident landlords with UK property income with effect from 6 April 2020 will be tweaked so that they work "as intended". The changes look fairly technical, and are intended to ensure, for example, that certain reliefs for finance costs are available so that there is more equal tax treatment between entities which are newly coming within the scope of UK corporation tax and resident companies.

Anti-avoidance measures against Construction sector

The Construction sector has not gone unnoticed this Budget. The government will introduce legislation in next year's Finance Bill to prevent non-compliant businesses from using the construction industry scheme (CIS) to claim tax refunds to which they are not entitled. The measure will allow HMRC to reduce or deny the CIS credit claimed on employer returns where the sub-contractor cannot evidence the deductions and does not correct their return when asked. It will also expand the scope of the penalty for supplying false information when registering for CIS and publish a consultation on how to promote supply chain due diligence, including ideas for tackling fraud in supply chains. It will also simplify the rules covering deemed contractors and clarify the rules on allowable deductions for expenditure on materials. Introduction of the reverse charge for VAT remains on 1 October 2020.

The government will publish a response to a review of the capital goods scheme “in due course”.

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