



## Effect of the 2009 Budget on International Businesses

Few would have switched places with the Chancellor when he stood up to deliver the Budget on Wednesday 22 April 2009. The message on public finances was miserable. The forecasts for growth were more upbeat but received a sceptical reception from the opposition and most commentators.

Whilst most of the headlines focused on the changes affecting high earning individuals there was much of interest to multinational corporations. Most of these issues have been bubbling under the surface for some months. While the consultation process continues on some issues, we now have greater clarity on other matters, including the treatment of late paid interest.

### Late paid interest

In a change to ensure compliance with EU laws companies can now claim relief for late paid interest, subject to certain conditions.

Under the old rules a UK company could not claim a deduction for accrued interest payable if payment was not made within 12 months of the year end and the creditor was not taxed on the

income in the UK. In effect, where interest due to overseas companies was paid more than 12 months after the balance sheet date tax relief was deferred until the interest was paid.

The new legislation only defers the tax relief until payment if the interest is paid after more than 12 months, the creditor is not taxed in the UK and certain conditions apply. For example, where the creditor company is tax resident in a "non-qualifying territory" the UK debtor company can only claim tax relief on a paid basis. A non-qualifying territory is one which does not have a tax treaty with the UK, or where the tax treaty does not have a non-discrimination article.

The new legislation is expected to apply for accounting periods beginning on or after 1 April 2009. However, there is a concession in place which allows tax returns filed on or after 28 July 2008 to claim a tax deduction for late paid interest.

### Dividend exemption

The majority of dividends received by a UK company after 1 July 2009 will be exempt from tax. This rectifies the current incongruity whereby dividends from a UK company are not taxable but those received from overseas are.

The legislation will take the equitable position that all dividends, whether received from the UK or overseas, are taxable unless they fall into specific exempt categories. The expectation is that most dividends will fall within these exemptions and so the change has been well received.

Small companies will now be included in the dividend exemption, having been excluded in previous draft legislation.

## Debt cap

The debt cap rules have yet to be finalised but the consensus is that they will be complex. Where a UK company is a member of a group the tax deduction it claims for net finance expenses will be restricted by reference to the worldwide group's gross external finance expense.

A "gateway test" is to be introduced which will compare the net debt of UK companies to the gross debt of the worldwide group. If the total net debt of all relevant companies is less than 75% of the gross debt of the worldwide group then the debt cap rules are not in point.

Furthermore, where a group is comprised of small and medium-sized companies it is expected that the debt cap legislation will not apply. The debt cap rules will be relevant to finance expenses payable in accounting periods beginning on or after 1 January 2010.

## Carry back of losses

The government extended the time limits for corporations to enable them to carry back trading losses, to help businesses in these difficult times. For trading losses made within accounting periods ended between 24 November 2008 and 23 November 2010, the trade loss carry back will be extended from the current one year to a period of three years, with losses being carried back against later years first.

## Conclusion

The recent Budget did not make any announcements that will surprise the community of multinational corporations but it did continue along the path of reinforcing the UK as an attractive jurisdiction for international groups.

