E3 Consulting's Reaction to Budget Statement - Real Estate Tax Update

budget statement 2014

Chancellor George Osborne delivered his fifth Budget statement on Wednesday 19th March 2014 focusing on creating a "Resilient Economy", further clamping down on tax abuse, and helping businesses and individuals invest to stimulate growth.

E^3 Consulting highlights here the key Property & Construction matters – we hope you find it useful (references relate to the Budget Red Book) – but do contact us to discuss any aspects in greater detail.

1.102 To continue to support business investment, the government is doubling the annual investment allowance (AIA) to £500,000 from April 2014 until the end of 2015. This will particularly benefit small and medium sized firms. The increased AIA will mean that up to 4.9 million firms – 99.8% of businesses – will receive 100% up-front relief on their qualifying investment in plant and machinery.

Three-quarters of the companies that will benefit from this increased tax relief on investment are outside London and the South East, and it will particularly help the agriculture and manufacturing sectors.

This will effectively ensure businesses spending up to £2m per annum should get most, if not all the relevant qualifying expenditure as 100% in the year incurred. Great opportunity for SME businesses to accelerate their investment, but it would be good to see a longer time frame for these boosted AIAs rather than regular changes over the last few years. Additionally SMEs will still face the very real challenge of funding any investment where banks are still too expensive in financial support to certain businesses or sectors. Current indications are that the AIA cap will revert to £25,000 per annum in January 2016.

1.149 The government will shortly take forward a Wales Bill that will devolve new tax and borrowing powers to Wales, enabling the Welsh government to raise more of the money it spends and providing it with further tools to support growth in the Welsh economy. In advance of implementing these new powers, the government has also agreed that the Welsh government can use existing borrowing powers to begin investing in improvements to the M4.

1.150 The government will commit £100 million to Greater Cambridge until 2019-20 to support their ambitious transport and infrastructure proposals through a Gain Share mechanism. This agreement could be worth up to £500 million over 15 to 20 years, dependent on the economic impact of their investments and, in addition to Greater Cambridge's own plans, could deliver over £1 billion of infrastructure investment in the Greater Cambridge area.

1.151 Following the announcement at Autumn Statement 2013, the government is in detailed discussion with Glasgow to develop a city deal that will drive employment and economic development across the city region. Glasgow has identified infrastructure, strengthening the local labour market, and support for business growth as priorities, and good progress is being made in determining how best the government can support Glasgow to take forward this ambitious plan.

These measures will support wider economic growth for Wales, East Anglian and Glasgow – through cascading activity far beyond the construction jobs immediately involved.

2.107 Capital allowances: Annual Investment Allowance (AIA) - The government will increase the AIA to £500,000 for all qualifying investment in plant and machinery made on or after 1 April 2014 until 31 December 2015. (Finance Bill 2014) (12)

These were widely expected measures and again will support investment by businesses into premises and other means of production. As has been expressed by others, the constant 'tinkering' with these capped levels have been frustrating as the transition rules create complex mathematical requirements to properly assess the tax savings. We would also prefer greater clarity to timeframes and feel a five year period should be considered a minimum time frame to allow business to properly respond to such tax incentives. Timing issues remain important.

2.108 Capital allowances in Enterprise Zones - The government will extend the period in which enhanced capital allowances are available in Enterprise Zones by 3 years until 31 March 2020. (Finance Bill 2014)

This extension to the EZ-ECAs will benefit those seeking to invest in the EZs, but one of the key issues with these measures is the lack of longevity as planning and funding any major development can take several years before a spade is put in the ground! Clear tax relief over a 10 year period would enable businesses to properly respond with positive regeneration results for these EZs.

2.109 Enhanced Capital Allowance (ECA) for zero emission goods vehicles - The government will extend the ECA for zero emission goods vehicles to 31 March 2018. To comply with EU state aid rules the availability of the ECA will be limited to businesses that do not claim the government's Plug-in Van Grant. (Finance Bill 2015) (39)

2.110 Research and Development (R&D) tax credits - The government will increase the rate of the payable credit for loss makers under the SME R&D tax credit scheme from 11% to 14.5% from April 2014. (Finance Bill 2014) (13)

Over the next 5 years this increase will support £1.3 billion of investment in innovation. This increase is a welcome enhancement to R&D relief – further encouraging investment in new technologies and innovation to power growth.

2.111 Business premises renovation allowance (BPRA) - Following a review of BPRA, the government will make changes to simplify the scheme, make it more certain in its application and to reduce the risk of exploitation, with effect from April 2014. (Finance Bill 2014).

These changes look to clarify what professional fees and associated costs are eligible or not, capping some aspects and also reducing the required 'hold' period before the tax 'claw back' kicks in from seven years to five. As with some other measures a time window beyond the current April 2017 life cycle for BPRAs would be preferred as Government's short time horizons don't fully correlate with typical project timelines.

2.112 Corporation tax: theatre tax relief - The government will introduce a new theatre tax relief at 25% for qualifying touring productions and 20% for other qualifying productions, with effect from 1 September 2014. (Finance Bill 2014) (49)

2.115 Mineral extraction allowances (MEAs): planning and permitting costs - The government will extend the scope of qualifying expenditure on mineral exploration and access to include expenditure on seeking planning permission and permits where permission and permits are granted. These changes will apply to qualifying expenditure a company incurs on or after Royal Assent of Finance Bill 2014. (Finance Bill 2014)

2.116 Capital allowances: MEAs - As announced at Budget 2013, the government will align the treatment of assets eligible for Mineral Extraction Allowances (MEAs) with that for assets eligible for Plant and Machinery Allowances. In addition, it will confirm that for the purposes of MEAs, a mineral extraction trade consists of an activity within the charge to UK tax. The changes will have effect on or after 1 April 2014 for businesses within the charge to corporation tax and on or after 6 April 2014 for businesses within the charge to income tax. (Finance Bill 2014)

2.120 Chargeable gains rollover relief reinvestment in intangible fixed assets - The government will introduce legislation to prevent claims for capital gains roll-over relief where the proceeds are reinvested in an intangible asset. (Finance Bill 2014)

2.121 Corporate loss buying - The government will exclude Research and Development Allowances (RDAs) from the anti-loss buying rules announced at Budget 2013. The change will have effect for qualifying changes occurring on or after 1 April 2014. (Finance Bill 2014)

2.168 Aggregates levy rates - The aggregates levy rate will remain at £2 per tonne in 2014–15. (40)

2.169 Aggregates levy exemption suspensions - As confirmed at Autumn Statement 2013, legislation will be introduced to suspend elements of the aggregates levy that are subject to a formal state aid investigation by the European Commission, from 1 April 2014. The legislation will make provision for the suspended elements to be reinstated should the Commission decision allow, and to enable revenue received as a result of the suspensions to be repaid where practicable. (Finance Bill 2014)

2.170 Landfill tax rates - The standard and lower rates of landfill tax will increase in line with the RPI, rounded to the nearest 5 pence, from 1 April 2015. Following industry engagement to address compliance, the government will introduce a loss on ignition testing regime on fines (residual waste from waste processing) from waste transfer stations by April 2015. Only fines below a 10% threshold would be considered eligible for the lower rate. Full proposals will be set out in a consultation document later in 2014. The government intends to provide further longer term certainty about the future level of landfill tax rates once the consultation process on testing regime has concluded, but in the meantime is committed to ensuring that the rates are not eroded in real terms. (Finance Bill 2014) (41)

These changes will be good news to the waste and construction sectors after many years of rapidly escalating rates more modest RPI rises will provide a breathing space whilst the industry consultation takes place to balance the environmental issues of waste management and reduction, without unduly penalising waste operators.

2.171 Landfill communities fund - The value of the landfill communities fund for 2014-15 will be reduced to £71 million. As a result, the cap on contributions by landfill operators will be amended to 5.1%. This reduction takes account of progress that environmental bodies have made to address the government's challenge to reduce unspent funds. The saving will be used to fund an equivalent one-off increase to address waste crime. The government intends that environmental bodies' performance against the challenge is published once the final information is available later this year. (41)

2.172 Enhanced Capital Allowances (ECA): Energy-saving and Water-efficient Technologies - The list of designated energy-saving and water-efficient technologies qualifying for ECA will be updated during summer 2014, subject to state aid approval. Adding two new Energy technologies – Active chilled beams and Desiccant air dryers with energy saving controls. Twelve other Energy technologies will have adjustments to their criteria. Water Technology relating to efficient washing machines is also being relaxed to widen the scope of eligible businesses. (42)

These are the 'normal' annual adjustments and seem to be expanding the eligibility that will continue to support businesses benefit from these 100% capital allowances from improving the energy and water efficiency of their properties. These become even more important as we approach the April 2018 deadline for property investors being prohibited from letting properties with EPC ratings of F or G.

2.174 VAT: changes to the place of supply rules and introduction of a Mini One Stop Shop (MOSS) – As announced at Budget 2013, the government will legislate to change the rules for the taxation of intra-EU business to consumer supplies of telecommunications, broadcasting and e-services. From 1 January 2015 these services will be taxed in the Member State in which the consumer is located, ensuring these are taxed fairly and helping to protect revenue. To support these changes, the government will also legislate for the introduction of a Mini One Stop Shop from 1 January 2015. This will give businesses accounting for VAT due on these types of supplies in other Member States the option of only registering in the UK, using a single return. (Finance Bill 2014)

2.175 VAT: revalorisation of the VAT registration and deregistration thresholds – From 1 April 2014 the VAT registration threshold will be increased from £79,000 to £81,000 and the deregistration threshold from £77,000 to £79,000.

2.176 VAT: prompt payment discounts – The government will legislate to ensure that VAT is accounted for on the actual price paid for goods and services where prompt payment discounts are offered. The change will come into effect on 1 May 2014 for supplies of telecommunication and broadcasting services to consumers and 1 April 2015 for other goods and services. (Finance Bill 2014)

2.182 Stamp duty land tax (SDLT): charities relief – As announced at Autumn Statement 2013, the government will legislate to make it clear that partial relief from SDLT is available where a charity purchases property jointly with a non-charity. The charity will be able to claim relief from SDLT on the proportion of the purchase attributable to it. The changes will take effect from the date on which Finance Bill 2014 receives Royal Assent. (Finance Bill 2014)

2.183 Enveloping of residential property - The government will introduce two new bands for the Annual Tax on Enveloped Dwellings (ATED). Residential properties worth over £1 million and up to £2 million will be brought into the charge with effect from 1 April 2015. The charge for these properties in 2015-16 will be £7,000. Properties worth over £500,000 and up to £1 million will be brought into the charge with effect from 1 April 2016. The charge for these properties in 2016-17 will be £3,500. These charges will be increased by CPI each year. (Finance Bill 2014) (55)

2.184 The government will also extend the 15% SDLT rate applied to residential properties purchased by certain non-natural persons to properties purchased for over £500,000 with effect from 20 March 2014. The government will extend the related CGT charge on disposals of properties liable to ATED for residential properties worth over £1 million and up to £2 million with effect from 6 April 2015 and for residential properties worth over £500,000 and up to £1 million with effect from 6 April 2016. The government will consult over summer 2014 on possible options to simplify the administration of ATED. (Finance Bill 2014 for SDLT; Finance Bill 2015 for CGT) (55)

2.185 Application of SDLT on certain authorised property funds - As part of the Investment Management Strategy, the government will consult on the SDLT treatment of the seeding of property authorised investment funds and the wider SDLT treatment of co-ownership authorised contractual schemes.

Persistent abuse of SDLT has seen steady but emphatic progress by Government to curb tax planning on properties to mitigate SDLT. Reducing the property costs to £500,000 from £2m will mean these rules now impact considerably more properties, potentially raise significant tax from the annual charges.

2.186 Business rates in Enterprise Zones - The government will extend the deadline by which businesses need to have located in an Enterprise Zone in order to claim business rates discounts by 3 years until 31 March 2018. (19)

Business rates have seen much support from all parts of the property industry calling upon Government to reduce the burden on businesses. Ratings in EZs as with capital allowances could benefit from longer timeframes to truly deliver the intended benefits of regeneration.

2.187 High risk promoters - The government will provide HMRC with new powers to tackle non-cooperative promoters of tax avoidance schemes. These powers will include the ability to issue conduct notices, breaches of which will trigger enhanced information powers with large financial penalties for non-compliance. (Finance Bill 2014)

2.188 Marketed tax avoidance schemes - Following a consultation that closed in February 2014, the government will legislate to provide that HMRC may issue a notice to the user of a tax avoidance scheme that they should settle their dispute with HMRC when the claimed tax effect has been defeated in other litigation. If the taxpayer does not settle they risk a penalty and must make upfront payment of the tax in dispute. Budget 2014 announces that the requirement to pay upfront will also apply to the disputed tax associated with any scheme that falls within the disclosure of tax avoidance scheme rules (DOTAS) and with schemes that HMRC counteracts under the general anti-abuse rule (GAAR). (Finance Bill 2014) (52) (r)

2.189 Disclosure of Tax Avoidance Schemes regime (DOTAS) improvements - The government will consult on improving the current DOTAS regime, including through refining the existing avoidance scheme hallmarks, introducing new hallmarks, and strengthening the penalties for non-disclosure. (Finance Bill 2015)

2.190 VAT Avoidance Disclosure Regime (VADR) improvements - The government will consult on proposed changes to the VADR in order to bring it more in line with the DOTAS regime, including shifting the primary responsibility for disclosure from the users to the promoters of VAT avoidance schemes. (Future Finance Bill)

2.191 Avoidance schemes using charities - Following announcement at Autumn Statement 2013, the government is consulting further on measures to help deter the use of charities established for the purpose of tax avoidance, with any legislation to follow at an appropriate time.

These tax avoidance measures are further development of the Government's clamp down of abusive tax practices. Following the extensive publicity from Public Accounts Committee tax has seen a considerably higher profile and public support for bring 'tax cheats' to heel. Government does need to remember that tax planning can be entirely legitimate and only abuse and evasion is illegal, blurring the boundaries does little to serve tax transparency or to reinforce tax incentives aimed at modifying tax payer behaviour!

2.247 Pilot Northern Ireland Enterprise Zone - The Northern Ireland Executive has set out its plans for a pilot Enterprise Zone near Coleraine, which the government will support by offering enhanced capital allowances to investors within that Zone. This is the first new Enterprise Zone in Northern Ireland, and is in line with the commitment the government and the Executive gave in the joint economic pact in 2013.

2.248 UK Guarantee for Mersey Gateway Bridge - The government has approved a UK Guarantee for up to £270 million to support the raising of debt finance for the Mersey Gateway Bridge.

2.249 Commercial permitted development and retail - In order to support businesses, the government's review of the General Permitted Development Order will include consultation on creating a much wider 'retail' use class, excluding betting shops and payday loan shops. The government will also consult on introducing greater flexibilities for businesses seeking to expand, including allowing changes to car parks, loading bays and non-retail facilities within existing boundaries, where there is little impact on the environment and local communities.

2.250 Change of use (planning) - The government has made changes to the General Permitted Development Order to allow more flexibility between use classes. The government will consult on further changes to allow more commercial uses, such as warehouses, light industrial or certain sui generis buildings, to become homes.

2.251 Judicial Review reform - The government, working closely with the judiciary, will launch a new Planning Court on 6 April 2014 to fast-track disputes, including big construction projects.

2.252 Nationally Significant Infrastructure Planning Regime Review - The government is committed to making the planning system work for major infrastructure projects and will shortly publish the outcomes of its consultation on the Nationally Significant Infrastructure Planning Regime, including a series of measures to streamline and improve the process.

2.253 National Infrastructure Plan: finance update - Building on the success of the National Infrastructure Plan, the government today (19 March 2014) publishes further analysis of the extent and nature of the potential financing opportunities in UK infrastructure, providing greater clarity and transparency for investors.

These further planning changes continue the Government's drive to streamline planning process to ensure nationally significant projects progress without unnecessary delays.