E3 Consulting's Reaction to Budget Statement 2016 - Real Estate Tax Impacts

16 March 2016

Chancellor George Osborne delivered his eighth Budget Statement Today on Wednesday 16th March 2016 and 'Stability' was one of today's 'buzz words'!

E^{3} Consulting highlights the initial key Property & Construction aspects – as referenced from the HM Treasury's Budget press releases and Red Book.

1.264 The Northern Ireland Executive has set the boundaries of a pilot Enterprise Zone near Coleraine. The government will legislate to ensure that Enhanced Capital Allowances can be offered within the Enterprise Zone, with the first investors expected on site later in 2016. See also 2.237.

1.283 To date, Enterprise Zones have supported over 560 businesses and secured over £2.3billion of private sector investment to build world-class business facilities and transport links, attracting over 20,000 jobs. The government will create a new MarineHub Enterprise Zone in Cornwall following the transfer of Wave Hub to Cornwall Council. Subject to the necessary business case approvals and local agreements, the government will also create new Enterprise Zones in Brierley Hill in Dudley, and Loughborough and Leicester, as well as extending the Sheffield City Region Enterprise Zone. The government will also ensure that all zones are able to offer Enhanced Capital Allowances for eight years following the establishment of the ECA site.

2.91 Business Premises Renovation Allowance – The government confirms that the Business Premises Renovation Allowance will expire on 31 March 2017 for corporation tax and 5 April 2017 for income tax as legislated in Finance Act 2012.

2.92 Plant and machinery: lease accounting changes – The government will publish a discussion document in spring 2016 with options for change to the tax treatment of leases of plant and machinery in response to the International Accounting Standards Board's new lease accounting standard (IFRS 16).

2.93 Large Business: Requirement to publish tax strategies – At Summer Budget 2015, the government announced new measures to improve large business tax compliance, with a consultation over the summer to refine the detail of the measures. Following consultation, the government will introduce new measures to improve large business tax compliance, including a new requirement that large businesses publish their tax strategies and special measures powers to tackle a minority of large businesses that persistently engage in aggressive tax planning. (Finance Bill 2016).

2.94 Offshore property developers – This measure ensures that profits from trading in UK land are always subject to UK tax by introducing specific rules to tax the full amount of such profits whether or not the person to whom they arise is UK resident. Legislation for this measure will be introduced at a later stage of Finance Bill 2016, following a brief consultation. (Finance Bill 2016).

2.95 Non-resident UK property development taskforce – Alongside the new legislation, HMRC will create a new taskforce to ensure tax on these profits is effectively collected by identifying and investigating offshore businesses which try to avoid paying tax.

2.108 Capital allowances and leasing. As announced at the Spending Review and Autumn Statement 2015, the government will amend legislation to counter two types of avoidance involving capital allowances and leasing, with effect from 25 November 2015. These changes will prevent companies from artificially lowering the disposal value of plant and machinery for capital allowances purposes, and make any payment received for agreeing to take responsibility for tax deductible lease related payments subject to tax as income. (Finance Bill 2016).

2.109 Partnership taxation: Proposals to clarify tax treatment - The government will launch a consultation on how partnerships calculate their tax liabilities. This consultation will include a number of areas where the taxation of partnerships could be seen as uncertain, including an issue highlighted by the Office of Tax Simplification's partnerships review.

2.121 Business rates: indexation – The government will change the annual uprating of business rates in England from the Retail Prices Index to the main measure of inflation, currently the Consumer Price Index, from 1 April 2020.

2.122 Small Business Rate Relief (SBRR): doubling – The government will permanently double SBRR in England from 1 April 2017.

2.123 Small Business Rate Relief: thresholds – The government will raise the SBRR threshold in England to rateable values of up to £12,000 tapering to £15,000 from 1 April 2017.

2.124 Business rates: standard multiplier – The government will raise the threshold at which business rates bills in England are calculated using the standard multiplier to properties with rateable values of £51,000 and above from 1 April 2017.

2.127 Business rates: long-term review – The government will publish a summary of the responses received as part of the long-term review of business rates in England in March 2016.

2.128 Business rates: modernisation – The government will work with local authorities in England to standardise business rates bills by 1 April 2017, ensure that all ratepayers can receive bills and make payments online by 1 April 2017 and ensure that all local authority billing and collection systems link with HMRC digital tax accounts by 2022.

2.129 Business rates: valuation reform – The government will aim to introduce more frequent (at least 3 yearly) revaluations of properties in England for business rates purposes and will publish a discussion paper in March 2016 outlining options to deliver this.

2.130 100% Business Rates Retention - The government will pilot approaches to 100% retention of business rates with Liverpool City Region, Greater Manchester and the Greater London Authority. This offer is also available to other city regions that have ratified their devolution deals.

2.145 VAT: consultation on penalty for participating in VAT fraud – The government will consult on a new penalty for participating in VAT fraud in spring 2016. Subject to the consultation, the intention is to legislate in Finance Bill 2017.

2.146 VAT: tackling online fraud in goods - VAT representatives and online marketplace liability – The government will legislate to provide HMRC with strengthened powers for directing the appointment of a VAT representative and greater flexibility in respect of seeking a security, and enable HMRC to hold an online marketplace jointly and severally liable for the unpaid VAT of an overseas business that sells goods in the UK via the online marketplace's website. (Finance Bill 2016).

2.147 VAT: Fulfilment House Due Diligence Scheme – The government has published a consultation on the 'fit and proper' standards that fulfilment houses will need to meet in order to operate. Fulfilment houses will have an obligation to register and maintain accurate records once online registration opens in 2018. They will also have to provide evidence of the due diligence they have undertaken to ensure overseas clients are following VAT rules. The consultation will be used to minimise as far as possible any costs for legitimate businesses.

2.148 VAT: international engagement with the EU and OECD - The government will continue to engage with international bodies in order to explore international solutions to VAT fraud, including looking at alternative mechanisms for the collection of VAT.

2.149 VAT: revalorisation of the VAT registration and deregistration thresholds – From the 1 April 2016 the VAT registration threshold will increase from £82,000 to £83,000 and the deregistration threshold from £80,000 to £81,000.

2.150 VAT: reverse charge on 'airtime' services – With effect from 1 February 2016, the government introduced an anti-fraud measure to prevent Missing Trader Intra-Community fraud on wholesale supplies of electronic communications services. This was done by Treasury Order which was laid before the House on 11 January 2016.

2.151 DCMS extension of museum VAT refund eligibility - The government will broaden the eligibility criteria for the VAT refund scheme for museums and galleries. DCMS today publish guidance on the new criteria, which will enable support to a wider range of free museums from across the UK.

2.170 Reform of business energy taxes - Following consultation on simplification of the business energy efficiency tax landscape, the government will:

- Abolish the Carbon Reduction Commitment (CRC) energy efficiency scheme with effect from the end of the 2018-19 compliance year. Businesses will be required to surrender allowances for the final time in October 2019. The government will work with the devolved administrations on closure details for the reporting element of the scheme.
- Increase the main rates of Climate Change Levy (CCL) from 1 April 2019, to cover the cost of CRC abolition in a fiscally-neutral reform and incentivise energy efficiency in CCL-paying businesses (Finance Bill 2016).
- Increase the CCL discount for sectors with Climate Change Agreements to compensate equivalently for the increase in CCL main rates. The CCL discount for electricity will increase from 90% to 93%, and the discount for gas will increase from 65% to 78% from 1 April 2019. The government will retain existing eligibility criteria for Climate Change Agreement schemes until at least 2023, with a target review to include a review of the buy-out price for periods 3 and 4 starting in 2016.
- Rebalance the main rates of CCL for different fuel types to reflect recent data on the fuel mix used in electricity generation. In the longer term, the government intends to rebalance rates further to deliver greater energy efficiency savings, to reach a 1:1 ratio of gas and electricity rates by 2025.
- Consult later in 2016 on a simplified energy and carbon reporting framework for introduction by April 2019.

2.171 Climate Change Levy (CCL) main rates (2017-18 and 2018-19) – CCL main rates will increase in line with RPI from 1 April 2017 and 1 April 2018. (Finance Bill 2016)

2.172 CRC energy efficiency scheme (CRC) – Allowance prices for CRC compliance years 2016-17, 2017-18 and 2018-19 will increase in line with RPI.

2.173 Climate Change Levy (CCL) exemption on renewably-sourced electricity - As announced at Autumn Statement 2015, a transitional period for electricity suppliers to apply the CCL exemption on renewably-sourced electricity generated before 1 August 2015 will end on 31 March 2018. (Finance Bill 2016).

2.174 Carbon Price Support rates - As previously announced, the government will continue to cap Carbon Price Support (CPS) rates at £18/tCO2 to 2019-20. For 2020-21, the cap will be maintained in real terms and set at £18/tCO2 plus RPI. This will continue to protect business competitiveness. The government will set out the long-term direction for CPS rates and the Carbon Price Floor at Autumn Statement 2016. (Finance Bill 2018).

2.175 Aggregates Levy rate 2016-17 - The Aggregates Levy rate will remain frozen at £2 per tonne in 2016-17, to support the construction sector.

2.176 Aggregates Levy utilities exemption - The government will consult on a new exemption from the Aggregates Levy for aggregate which is an unavoidable by-product of laying pipes for utilities, with a view to legislating in Finance Bill 2017.

2.177 Landfill Tax rates - The standard and lower rates of Landfill Tax will increase in line with RPI, rounded to the nearest 5 pence, from 1 April 2017 and again from 1 April 2018. (Finance Bill 2016).

2.178 Landfill Tax: clarifying scope - HMRC will consult later this year on the definition of a taxable landfill disposal, with the intention of changing the definition in Finance Bill 2017. This change aims to bring clarity and certainty to the tax without affecting its intended scope.

2.179 Landfill Tax: tackling waste crime – Additional funding will be made available over the next five years for HMRC to increase compliance activity across the waste supply chain, enabling the government to better tackle waste crime.

2.180 Changes to the Landfill Communities Fund - At Autumn Statement 2015, the government announced reforms to the Landfill Communities Fund, including simplification of record-keeping requirements and changes to the scheme's objectives. The scheme's regulator, ENTRUST, will publish guidance shortly setting out the requirement for landfill operators to make a greater contribution to the fund from April 2016.

2.181 Enhanced Capital Allowances (ECAs): energy-saving and water-efficient technologies – The list of designated energy-saving and water-efficient technologies qualifying for an ECA will be updated during summer 2016, subject to State Aid approval.

2.182 Packaging recycling targets –
The government will legislate later in 2016 to reduce statutory plastic packaging recycling targets for 2016 and 2017, to reduce the burden on business. The government will also set new recycling targets for glass and plastic packaging for 2018, 2019 and 2020. For plastic, the existing target will be reduced to 49% for 2016 and then increased by 2% each year to 2020, to 57%. For glass, the existing target of 77% will be maintained until 2017 and then increased by 1% each year to 2020, to 80%.

2.183 Stamp Duty Land Tax: additional properties – As announced at Spending Review and Autumn Statement 2015, the government will introduce higher rates of SDLT on purchases of additional residential properties from 1 April 2016. The higher rates will be 3 percentage points above the current SDLT rates. Following consultation, there will be no exemption from the higher rates for significant investors. Purchasers will have 36 months rather than 18 months to claim a refund of the higher rates if they buy a new main residence before disposing of their previous main residence. Purchasers will also have 36 months between selling a main residence and replacing it with another without having to pay the higher rates. A small share in a property which has been inherited within the 36 months prior to a transaction will not be considered as an additional property when applying the higher rates. (Finance Bill 2016) The government will provide £60 million to enable community-led housing developments in rural and coastal communities, including through Community Land Trusts, where the impact of second homes is particularly acute. The South West will receive around £20 million of this funding.

2.184 Stamp Duty Land Tax: application to certain authorised property funds - As announced at Spending Review and Autumn Statement 2015, the government will introduce a seeding relief for Property Authorised Investment Funds (PAIFs) and Co-ownership Authorised Contractual Schemes (CoACSs) and make changes to the SDLT treatment of CoACSs investing in property so that SDLT does not arise on the transactions in units. These changes will take effect from the date Finance Bill 2016 receives Royal Assent. (Finance Bill 2016).

2.185 Annual Tax on Enveloped Dwellings (ATED) and 15% rate of Stamp Duty Land Tax: scope of reliefs - As announced at Spending Review and Autumn Statement 2015, the government will extend the reliefs available from ATED and the 15% higher rate of SDLT to equity release schemes (home reversion plans), property development activities and properties occupied by employees from 1 April 2016. (Finance Bill 2016).

2.186 Stamp Duty Land Tax (SDLT): reform of non-residential rates - The government will change the calculation of SDLT on freehold and leasehold premium non-residential transactions so the rates apply to the portion of the purchase price within each band. The government will also amend the rates and thresholds so that the portion of the transaction value up to £150,000 is charged at a rate of 0%, the portion between £150,001 and £250,000 is charged at a rate of 2%, and the portion over £250,000 is charged at a rate of 5%. SDLT on non-residential leasehold rent transactions, where the rates already apply to the portion of the purchase price within each band, will be reformed to include a new 2% rate for leasehold transactions with a Net Present Value over £5 million. These changes will take effect on and after 17 March 2016. (Finance Bill 2016).

2.187 Capital Gains Tax - The government will reduce the higher rate of Capital Gains Tax (CGT) from 28% to 20% and the basic rate from 18% to 10%. The 28% and 18% rates will continue to apply for carried interest and for chargeable gains on residential property. These changes will take effect for disposals made on or after 6 April 2016. (Finance Bill 2016).

2.188 Capital Gains Tax entrepreneurs' relief: extension to long-term investors – The government will extend entrepreneurs' relief (ER) to external investors in unlisted trading companies. The new rules will apply to newly issued shares purchased on or after 17 March 2016, providing they are held for a minimum of 3 years from 6 April 2016, and subject to a separate lifetime limit of £10million of gains. (Finance Bill 2016).

2.189 Capital Gains Tax entrepreneurs' relief: associated disposals – The government will allow ER to be claimed on a disposal of a privately-held asset when the accompanying disposal of business assets is to a family member. These changes will take effect for disposals made on or after 18 March 2015. (Finance Bill 2016).

2.190 Capital Gains Tax entrepreneurs' relief: goodwill on incorporation - The government will allow ER to be claimed, subject to certain conditions, on gains on the goodwill of a business when that business is transferred to a company controlled by five or fewer persons or by its directors. These changes will take effect for disposals made on or after 3 December 2014. (Finance Bill 2016).

2.191 Capital Gains Tax entrepreneurs' relief: joint ventures and partnerships - The government will allow ER to be claimed in some cases involving joint ventures and partnerships where the disposal of business assets does not meet the existing 5% minimum holding conditions. These changes will take effect for disposals made on or after 18 March 2015. (Finance Bill 2016).

2.192 Capital Gains Tax entrepreneurs' relief: review of the definition of a trading company – The government will review the definition of a trading company for ER purposes to ensure that it operates effectively.

2.193 Employee Shareholder Status - The government will introduce an individual lifetime limit of £100,000 on gains eligible for Capital Gains Tax exemption through the Employee Shareholder Status. This limit will apply for arrangements entered into on or after 17 March 2016. (Finance Bill 2016).

2.194 Capital Gains Tax for non-UK residents disposing of UK residential property - As announced at Spending Review and Autumn Statement 2015, the government will amend the CGT computations required by non-residents on the disposal of UK residential property by removing, with retrospective effect from 6 April 2015, a double charge that occurs in some circumstances and correcting an omission with effect from 25 November 2015. The government will also prescribe with effect from 6 April 2015 two specific circumstances where a return is not required and give HM Treasury powers to add, amend or remove circumstances and make consequential provision. The government will also add CGT to the list of taxes that the government may collect on a provisional basis. (Finance Bill 2016).

2.195 2016-17 compliance yield target - The government has set HMRC a compliance yield target for 2016-17 of £27 billion.

2.200 A new criminal offence for tax evasion - As announced at Spending Review and Autumn Statement 2015, the government will introduce a new criminal offence that removes the need to prove intent for the most serious cases of failing to declare offshore income and gains. (Finance Bill 2016).

2.201 New civil penalties for offshore tax evaders – As announced at Spending Review and Autumn Statement 2015, the government will increase civil penalties for deliberate offshore tax evasion, including the introduction of a new penalty linked to the value of the asset on which tax was evaded and increased public naming of tax evaders. (Finance Bill 2016). A separate Technical Note on Profits from Trading in and Developing UK Land has also been published today along with Double Taxation protocols with Guernsey, Jersey and Isle of Man.

2.202 New civil penalties for those who enable offshore evasion - As announced at Spending Review and Autumn Statement 2015, the government will introduce civil penalties for those who enable offshore tax evasion, including public naming of those who have enabled the evasion. (Finance Bill 2016).

2.203 A requirement to correct past offshore tax non-compliance - The government will introduce a new legal requirement to correct past offshore non-compliance within a defined period of time with new sanctions for those who fail to do so. (Finance Bill 2017).

2.235 Swansea Bay City region deal – The government will open negotiations with the Welsh Government and local partners on a potential City Deal for Swansea Bay City Region.

2.236 Edinburgh City Deal - The government will open negotiations with local partners on a potential City Deal for Edinburgh and South East Scotland.

2.237 Enhanced Capital Allowances for the Enterprise Zone at Coleraine, Northern Ireland - The government will legislate to offer enhanced capital allowances within the Northern Ireland Executive's pilot Enterprise Zone at Coleraine.

2.238 Enhanced Capital Allowances for a proposed Enterprise Zone at Port Talbot, Wales - The government will support proposals for an Enterprise Zone at Port Talbot by offering enhanced capital allowances to investors within that Zone, subject to agreement with the Welsh Government on the boundaries within which ECAs will be available.

2.312 Enhanced Capital Allowances in Enterprise Zones - The government will ensure that all Enterprise Zones are able to offer Enhanced Capital Allowances for eight years from the establishment of relevant sites. (Finance Bill 2016).

2.313 New Enterprise Zones and extensions - The government will create a new Cornwall MarineHub Enterprise Zone following the transfer of Wave Hub (a wave energy testing facility) to Cornwall Council. The government will also extend the Sheffield City Region Enterprise Zone subject to necessary approvals and agreements, and create new Enterprise Zones at Brierley Hill and Loughborough and Leicester subject to business case.

2.314 Wave Hub - The government is transferring ownership of Wave Hub, the world's largest wave energy testing facility, to Cornwall Council, and providing around £15 million to develop the facility as part of a new MarineHub Enterprise Zone.

2.322 Digital standards in construction – The government will develop the next digital standard for the construction sector – Building Information Modelling 3 – to save owners of built assets billions of pounds a year in unnecessary costs, and maintain the UK's global leadership in digital construction

There are many different aspects of these Government announcements. Most will be covered by the draft legislation to be published in the next few days and weeks, but some are longer term or simply promises to consult on certain aspects. As more detail becomes available we shall comment further on those matters that are most pertinent to our clients – operating across the property and construction sectors, as well as owners and occupiers from wider industry.

E^3 Consulting provides specialist property tax advice to owners, investors and occupiers of UK real estate from offices in Southampton and London advising on Capital Allowances, Land Remediation Relief, VAT, Repairs and Maintenance and Community Infrastructure Levy (CIL). Please see our website or follow us on twitter to keep up to date with views and technical updates on property tax matters.

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