

## 2005 PRE-BUDGET REPORT AN UPDATE FOR PROPERTY OWNERS AND DEVELOPERS

In the Pre-Budget Report, the Chancellor of the Exchequer announced a number of changes and proposals which will have a significant effect on property owners and developers.

### PLANNING GAIN SUPPLEMENT

Following the recommendations in the Barker Review, a consultation process has been launched into the proposal for a Planning Gain Supplement (PGS). The consultation will run until 27 February 2006. The key proposals and areas for consultation are as follows:

- ▶ PGS will not come into effect until 2008. In addition, there will be transitional provisions for contracts entered into before that date.
- ▶ The PGS will apply to both residential and non-residential land, but not home improvements and extensions.
- ▶ The introduction of PGS will be linked to a reduction in the scope of planning obligations (Section 106 Agreements), with the suggested intention of bringing greater speed and transparency to the planning system.
- ▶ However, the planning obligations will include the provision of affordable housing and matters affecting the environment of the development site. These matters will include all on-site works and access, as well as local environment improvements. They will exclude the off-site provision of community facilities, education and transport, and most other off-site provisions.

- ▶ The PGS charge will arise on the difference between the value of the land with full planning permission, and its value with its current use.
- ▶ The PGS will be collected through the self-assessment regime, and its payment will be deferred until the development work commences, rather than on the grant of planning permission.
- ▶ The PGS will be paid by the person carrying out the development, which may not necessarily be the original owner who obtained the planning permission.
- ▶ The revenues generated from the PGS will be applied for the provision of infrastructure in local communities, rather than collected for Central Government projects.
- ▶ The consultation process will consider whether the PGS should be treated as a deductible expense in calculating trading profits for tax purposes. It is not intended that any other special provision should be made for other taxes.
- ▶ The consultation document notes the failure of previous development gains taxes which, when set too high, have prevented land being brought forward for development. It therefore suggests that "PGS should only capture a modest portion of the uplift".
- ▶ It is likely that a lower rate will be applied to brownfield sites.

### REAL ESTATE INVESTMENT TRUSTS (REITS)

The Government has committed to bringing forward legislation in the 2006 Finance Act to introduce REITS. More detailed proposals in relation to the precise regime will be published by HMRC before the end of 2005.

Although the precise details are awaited, the Government has previously indicated that REITS will be required to invest at least 75% of their funds in rental income producing investment properties in the UK. The government has also confirmed that it will be a requirement for 95% of such income arising to be distributed to the unit holders. The income arising on such investments and any capital gains arising from their disposals will be exempt from tax within the REIT. However, it is likely that any profits arising from development activities will be taxable within the REIT (to the extent to which the REIT is allowed to carry out such activities). This is a significant step forward for the publicly listed property sector which the government hopes will expand. However, details of the tax charge on conversion to a REIT for existing property investment companies will not be published until the 2006 budget.

### PENSION SCHEMES

The government has announced that penal additional tax charges will be imposed on SIPPs and SSASs which invest directly in residential property. However, such pension schemes will be allowed to invest in the new Real Estate Investment Trusts.



## STAMP DUTY LAND TAX

The Chancellor announced no changes to the Stamp Duty Land Tax regime in the Pre-Budget Report. The disappointment in not seeing a simplification of the regime for partnership property is balanced by the absence of any new anti-avoidance legislation.

## SMALL BUSINESSES

The Government has removed the zero rate of corporation tax which was originally introduced in 2002, as well as the non-corporate distribution rate. The current small companies rate of 19% has been expanded to cover those companies which previously fell within the zero rate.

As a balance, first year capital allowances have been increased to 50% for small businesses in the year from April 2006.

## VAT ON LAND AND PROPERTY

The Chancellor has announced a number of proposals for changes to the regime for VAT concerning land and property. These are all subject to consultation exercises, and they are as follows:

- ▶ The current VAT legislation provides that an option to tax can be revoked after 20 years, subject to written consent from the Commissioners. The first date on which options become eligible for revocation is 2009 (20 years after the option to tax was introduced). The new proposals for this include two routes – either automatic consent or permission consent. The suggestion is that automatic consent will apply where a taxpayer certifies that all the conditions are met. These are principally that the taxpayer has held an interest in the property for at least 20 years, no rents have been charged at an under-value, no capital item is held, and there are no pre-payments or subsequent balloon payments. If these conditions are not satisfied, the owner will need to apply to Customs for consent.

- ▶ It is also currently possible to revoke an option to tax within three months of it being made, subject to certain conditions being applied. It is proposed that this period be extended to 12 months.
- ▶ A global option to tax has been available for a number of years. HMRC are proposing a new “universal” option regime. This will involve a number of changes to the details of the process, and importantly will allow those taxpayers affected to revoke their options to tax after 20 years on individual properties as noted above.
- ▶ HMRC are proposing to clarify the definitions of “extension” and “linked” buildings for the purposes of the option to tax. HMRC also propose changes to the rules so that separate options in respect of land and the buildings standing on it will no longer be available.
- ▶ HMRC are proposing modifications to the rules applying to groups where an option to tax has been made.
- ▶ HMRC have announced a consultation into the rules governing supplies where the legal and beneficial ownership of property is split. HMRC are concerned that the current rules may be used for avoidance purposes.
- ▶ HMRC are proposing to re-write Schedule 10 of the VAT Act concerning land and buildings with a view to providing greater clarity.

## PROPOSED CAPITAL ALLOWANCES FOR RENOVATION OF BUSINESS PREMISES IN DISADVANTAGED AREAS

HMRC have issued a summary of the responses to the consultation process on this proposal. The general consensus has been that the most appropriate void period prior to these capital allowances being available should be 12 months. At this length of period, it has been generally agreed that this would not create an incentive to leave properties vacant. All respondents agreed that these capital allowances should be available to all businesses.

It is anticipated that detailed guidance should be forthcoming before the 2006 budget.

This update is for information only and does not constitute professional advice. For advice on your particular circumstances or for further information, advice or assistance in relation to any of the matters raised above, please speak to the authors or your usual Dixon Wilson contact.

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