Grant Thornton
An instinct for growth™

Tax

Tax and legal update

Issue 25 - March 2019

This issue:

- introduction of Brexit omnibus bill – VAT and excise duty;
- Companies (Amendment) Bill 2019; and
- Revenue audits update.

Contacts

Jillian O'Sullivan
T +353 (0)1 680 5850
E jillian.osullivan@ie.gt.com

Jarlath O'Keefe
T +353 (0)1 680 5817
E jarlath.okeefe@ie.gt.com

Sarah Meredith
T +353 (0)1 680 5784
E sarah.meredith@ie.gt.com

Marian Lee
T +353 (0)1 680 5939
E marian.lee@ie.gt.com

Jim Kelly
T +353 (0)1 680 5780
E jim.kelly@ie.gt.com

Gary Cloono
T +353 (0)1 680 5648
E gary.cloono@ie.gt.com

Introduction of Brexit Omnibus Bill – VAT and excise duty

On 20 February 2019 a Brexit Omnibus Bill to prepare Ireland for a no deal withdrawal by the UK from the EU was initiated by the government. The Bill largely recommends preserving existing tax policies. It is suggested that where certain tax legislation refers to the EU and EEA states, the provisions will be extended to include the UK within the definition of a 'relevant member state'.

VAT postponed accounting for imports

The Bill would introduce a measure which allows traders to operate a postponed method of accounting for VAT on the importation of goods from the UK and also other third countries, ie outside the EU. The purpose of this is to ensure such traders would not incur cash-flow costs in terms of funding import VAT and then claiming it via their VAT returns.

VAT 56 authorisations

The Bill would also introduce a number of further conditions to ensure participation in the VAT 56 Authorisation scheme. Currently a trader may qualify based on projected turnover. The Bill provides that a trader may only qualify based on turnover in the 12 months prior to the application for the authorisation.

VAT retail export scheme

The Bill would introduce a minimum value of €175 for the supply of goods for a traveller to avail of the VAT retail export scheme. Further requirements would be imposed for UK domiciled or habitually resident individuals.

Duty-free purchases

The Bill includes a measure which, if implemented, will limit the relief from excise duty on alcohol and tobacco products for passengers travelling to countries outside the EU, other than the United Kingdom.

The Bill also proposes to maintain the status quo for some existing tax reliefs post Brexit, for example:

- the start-up exemption will be available for UK incorporated companies subject to Irish tax;
- the Research and Development (R&D) tax credit will be available on certain qualifying R&D expenditure incurred in the UK (however, this would need to be reviewed in the context of other criteria);
- group loss relief provisions are expected to continue to apply to UK resident companies;
- companies involved in a transfer of assets through reconstructions/ amalgamations with UK resident companies will be eligible to use existing tax reliefs;
- the Capital Gains Tax (CGT) exemption for property purchased between 2011 and 2014 will be amended to specifically include UK property;

- VAT would be paid in the same way where companies are importing from the UK. This is known as the postponed accounting scheme for import VAT; and
- while the draft Bill (subject to enactment) is expected to minimise disruption to cross border activities, following the UK's anticipated exit on 29 March 2019, commercial transactions with the UK are unlikely to have the same fluidity post Brexit.

Companies (Amendment) Bill 2019

The Companies (Amendment) Bill 2019 (the Bill) was published on 7 January 2019. The sole purpose was amending Section 343 of the Companies Act 2014, which relates to the time periods required for filing a company's annual return.

At present, Section 343(2) of the Companies Act 2014 provides that a company has up to 28 days after its annual return date to file its annual return electronically with the Companies Registration Office (the CRO). In instances where a company files its annual return made up to a date earlier than its annual return date, Section 343(3) requires that the return be electronically filed no more than 28 days after that earlier date. In both instances, the company has a further 28 days after the annual return was electronically filed to submit the accompanying financial statements. This Bill will introduce a change to both sections 343(2) and 343(3) of the 2014 Act, such that it will extend the requisite period to 56 days. A company will be able to file its annual return and financial statements any time within the full 56 days.

The Department of Business, Enterprise and Innovation (DBEI) described the Bill as a technical amendment, designed to reduce the administrative burden on companies. It will simplify the process for filing annual returns by turning it into a 'single-step' process that can be carried out electronically. It is envisaged that the CRO will provide a facility to upload signed signature pages also.

The Bill, currently in its third stage at the Houses of the Oireachtas, is expected to be passed into legislation soon.

Revenue audits update

The Code of Practice for Revenue Audits and other Compliance Interventions, provides a set of guidelines which are to be adhered to by Revenue, taxpayers and tax agents during the course of Revenue interventions.

Procedures for location, attendance, etc at an audit

Generally, Revenue audits are carried out at the taxpayer's place of business and the taxpayer is expected to attend. The taxpayer's agent can be present, but this is not essential.

E-Audits and access to systems

In the course of an audit or intervention, Revenue will request that the taxpayer generate reports and provide data files from their systems. Revenue are not permitted to operate the taxpayer's computer system, however the taxpayer is expected to fully cooperate and provide the necessary data. The data can be transferred using Revenue's File Transfer Service (RFTS) or encrypted USB keys.

Revenue disclosures

As and from the date of a notification of a Revenue audit the opportunity to make an 'unprompted' qualifying disclosure is no longer available. However, a taxpayer is still entitled to make a 'prompted' qualifying disclosure up to commencement of the audit. A taxpayer is entitled to make an 'unprompted' qualifying disclosure where they have not received notification of a Revenue audit and are subject to another type of intervention, eg an aspect query. Generally, lower penalties are applied to an 'unprompted' disclosure.

Benefits of a qualifying disclosure

A qualifying disclosure, whether prompted or unprompted, must be in writing and include details of the tax owing and interest due to Revenue. It should also be accompanied by payment of the tax plus interest. There is no requirement to calculate a penalty as this is agreed with Revenue at the end of an audit/investigation. Importantly, making a qualifying disclosure can reduce the level of penalty applied and protect the taxpayer from publication and/or prosecution.

grantthornton.ie

#GTtax

Grant Thornton Ireland

Offices in Dublin, Belfast, Cork, Galway, Kildare, Limerick and Longford.

Grant Thornton
An instinct for growth™