INTERNATIONAL TAX REVIEW

ANALYSIS: Why taxpayers should consider relocating to the UK

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Slashing the corporate tax rate, reforming the controlled foreign company rules and blocking plans for a financial transactions tax are just three ways the government hopes to attract multinationals to relocate to the UK. *International Tax Review* investigates whether these steps will tempt companies to make the move.

A number of UK-based international companies have migrated from the UK to lower tax jurisdictions such as Ireland and Switzerland over the past few years in response to the UK's uncompetitive corporate tax rate and strict controlled foreign company (CFC) rules, among other aspects.

But the tide appears to be turning.

The UK's corporate tax rate has been cut from 28% and will hit 23% by 2014.

Reforms to the much maligned CFC rules are on the way and the coalition has made it abundantly clear the UK will play no part in a European financial transaction tax (FTT).

Add to this the fact the UK enforces no withholding tax on dividends, offers capital gains exemption, is not part of the eurozone, has announced plans for a patent box and offers relative certainty in tax planning compared to other jurisdictions, and the UK is once again on the radar for multinationals.

Global insurance giant Aon's announcement last month that it is relocating its headquarters to London is confirmation the UK's regime is now enabling multinationals to cut their global effective tax rates.

A tax director at a multinational group which is looking to move to the UK told *International Tax Review,* that the CFC reforms are the most significant factor in making the UK an attractive location.

"Our group is seriously considering moving to the UK," said the tax director.

"It will all depend on how the final CFC rules come out but I expect there to be a number of companies migrating to the UK when the new CFC rules are implemented.

"I think the migrations will mostly be similar to the Aon move, involving US-headed groups where the group tax rate is likely to be around 35%, and they can make a large tax saving by coming to the UK."

With the average national corporate tax rate at 35%, and state tax to pay on top, the US regime is quite hostile for multinationals in comparison to the UK. The US also imposes strict CFC rules that deter global companies, while the UK is relaxing its taxation of foreign subsidiaries.

Speaking about Aon's relocation, the tax director said: "I think tax would have played a big part in Aon's move, I imagine they will make significant reductions in their tax bill by moving to the UK and the CFC reforms will have played a part in this.

"The US has no dividend exemptions, has a complicated equivalent of the CFC regime and the corporate tax rate is higher – with a national rate of around 35% – so it does not compare well with the UK."

Updated CFC

The UK Treasury released updated draft legislation on the CFC reforms last week and this has received positive feedback from taxpayers and advisers.

Miles Dean, of Milestone Tax, said the most significant reform for multinationals is the finance company partial exemption which may allow UK-based multinationals to structure their finance branches in low tax jurisdictions.

"The finance company partial exemption puts the UK on a par with countries like Luxembourg and Switzerland and allows the UK to compete with all other major EU countries as a domicile for multinationals," said Dean.

The tax director said the new CFC rules are much more competitive than those of other G20 countries.

The new rules include an exemption which will allow international businesses to run their intra-group financing function outside the UK.

By establishing their finance function in a low tax jurisdiction within the terms of the exemption, UK-based companies will significantly reduce their UK effective tax rate.

The highest tax rate multinationals will pay on profits of foreign finance companies from overseas intra-group financing will be 5.75%, and there is the potential under the new rules that these profits will be fully exempt from UK tax.

"This will make the UK very competitive within the EU and I think the 5.75% rate will be sufficient to satisfy multinationals," said Dean.

"The UK will have an added advantage as a base for multinationals since they will be able to rely on the UK's tax treaty network which is better than the networks of many other countries.

"If a multinational has a UK base, it may be able to set up an exempt trading finance branch in a low tax jurisdiction and rely on the UK's tax treaty network."

FTT

President Sarkozy's plans to implement an FTT in France could also drive businesses to the UK.

The tax, which is likely to be applied to transactions involving French stocks and some derivatives, will be levied on resident and non-resident parties participating in trading.

Arnaud de Bresson, a spokesman for Paris Europlace, an industry body representing the French financial market, said an FTT would heavily affect banks, financial institutions, insurance companies and issuers of French stock.

“If the tax was only applied in France it would lead to an inevitable relocation of the activities of affected banks, insurance companies and management companies for major financial markets, and consequently reduce the control of credit in the economy and the role of Paris in the European and world economy,” said de Bresson.

A spokesman for the French Banking Federation said the tax will penalise large French companies listed on the Paris stock exchange because it will be levied on the purchase of stocks of companies whose market capitalisation exceeds €1 billion ($1.3 billion).

“This tax represents a significant extra cost for institutional and retail investors and therefore institutional investors may be tempted to favour foreign stocks over French ones, which will have a negative impact on the valuation of French companies at a time when they need to strengthen their balance sheet, and as new capital rules for banks are prompting companies to increasingly tap financial markets for their funding," said the spokesman.

The proposals suggest that only the end transaction in a series will suffer the tax, meaning the charge will only be borne by the final buyer and so will mainly impact the issuers of stocks.

Such a disincentive for stocks to be listed in France creates a risk that issuers will relocate – possibly to the UK – to avoid the issue of foreign investors trading French stock in another jurisdiction being liable to the tax.

UK still has pitfalls

Given the UK government’s firm opposition to a FTT, London will be an attractive option for any companies looking to migrate from France, following the tax’s implementation in August.

However, the UK still faces fierce competition from other jurisdictions to attract multinationals.

And its regime is not without its pitfalls.

The main issues still remaining with the UK regime are the complexity of legislation and the compliance burden on multinationals.

“The new CFC reforms are aimed at simplifying the rules but the compliance burden will still be significant as it will be necessary to test whether a foreign subsidiary is subject to the rules or not and you have to go through this process on an annual basis for every subsidiary,” said the tax director.

“For a large multinational, with many companies all over the world, this will be a long and arduous process involving a lot of work, and the complexity of the UK regime often means you have to spend a lot of money on professional advice,” the director added.