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IMPACT OF BREXIT ON UK TAX CODE

Although in the short term the UK's vote in favour of leaving the EU will have little immediate impact on the UK's indirect or direct tax system, we have set out below some of the longer term implications:

NOW	POST-BREXIT
VAT	
The UK's current VAT legislation is derived from EU law which has often been cited as the reason why certain changes cannot be implemented.	Following Brexit, the UK may be in a position to simplify its current VAT regime and reduce the VAT rates applicable to certain products (for example, domestic fuel and women's sanitary products).
Customs duties	
No customs and duties apply on the movement of goods between EU member states. The common customs code applies to imports from non-EU countries.	In the absence of a new customs union, duties are likely to be applied to goods imported into the UK from the EU.
Double tax treaties	
The UK has an extensive tax treaty network which reduces withholding taxes on dividends interest and royalties that would otherwise arise on cross-border payments.	The UK's double tax treaty network will be largely unaffected by Brexit - however, provisions which assume the UK's membership of the EU (such as the 'equivalent beneficiary' provisions in US double tax treaties) may need amendment.
EU directives	
The UK is subject to and has the benefit of EU Directives (such as the Parent Subsidiary Directive, the Interest and Royalties Directive and EU Mergers Directive) which apply to regulate the tax treatment of intra-EU payments of dividends, interest and royalties and cross-border business combinations and reorganizations involving companies in EU member states.	Without the benefit of the directives, there may be tax leakages in cross-border transactions and payments. This may require corporate groups to reconsider the tax treatment of UK companies within their structure. However, given the UK's domestic tax code (which does not impose withholding taxes on dividends and broadly exempts corporate dividends) and extensive tax treaty network (to reduce withholding taxes on dividends, interest and royalties), the most likely effects will be felt in the area of cross-border mergers and reorganizations. Consideration should be given to implementing any proposed cross-border mergers before the UK leaves the EU.
Effect of EU treaty principles on UK legislation	
UK tax law has developed often as a result of EU case law to reflect EU fundamental freedoms of freedom of establishment and freedom of movement of capital. There are numerous examples of this. For example, one aspect of this development is that non-UK companies can be members of groups for tax purposes and group relationships can be established through non-UK companies.	Absent a requirement to comply with EU case law, it would be open to the Government to reverse the legislative changes made to accommodate EU treaty principles.
State aid	
The UK is currently required to comply with the EU rules prohibiting state aid. The EU Commission has in recent times sought to extend State Aid principles in to the area of tax competition, most notably in relation to tax rulings given by some EU member states to multinational enterprises.	This prohibition would fall away following Brexit, potentially enabling the UK to provide preferential tax regimes to certain entities.

CONTACT DETAILS

If you would like further information or specific advice please contact:

ASHLEY GREENBANK
PARTNER, TAX
DD +44 (0)20 7849 2512
ashley.greenbank@macfarlanes.com

ALICIA THOMAS
SOLICITOR, TAX
DD +44 (0)20 7849 2773
alicia.thomas@macfarlanes.com

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MACFARLANES LLP
20 CURSITOR STREET LONDON EC4A 1LT

T +44 (0)20 7831 9222 F +44 (0)20 7831 9607 DX 138 Chancery Lane www.macfarlanes.com