Finance Bill 2021

Representation from the Association of Taxation Technicians (ATT)

Clauses 9 to 12: Super-deduction and the interaction with the Small Profits Rate

Executive Summary

Clause 9 introduces an enhanced First Year Allowance ("Super-deduction") which in relation to qualifying expenditure incurred in the two-year period from 1 April 2021 to 31 March 2023 gives tax relief for the chargeable period on 130% of the actual cost.

The Super-deduction, which is only available to businesses within the charge to corporation tax (so not those subject to income tax), appears to have been designed without full consideration of its interaction with the introduction from 1 April 2023 of the Small Profits Rate.

1. Interaction of the Super-deduction with the Small Profits Rate

1.1. In order to promote early capital investment, the Super-deduction is available on an unlimited amount of qualifying expenditure which is incurred in the two-year period from 1 April 2021 to 31 March 2023.

1.2. As the main rate of corporation tax is increasing from 19% to 25% with effect from 1 April 2023 (see Clause 6 of the Bill), there was a real risk that companies would delay their capital expenditure until it would attract tax relief at the 25% rate. Enhancing the Super-deduction so that it gives tax relief on 130% of the expenditure substantially overcomes that risk. The tax relief at a 19% tax rate on 130% of actual expenditure equates to a tax deduction of 24.7% on the amount of expenditure – almost the same as the tax relief at a 25% tax rate on the actual expenditure.

1.3. In relation to a 12-month chargeable period which falls wholly within the two-year period to 31 March 2023 (for example a chargeable period to 31 December 2022), the Super-deduction calculation is straightforward. Any company regardless of its level of profitability incurring qualifying expenditure in that chargeable period will have the benefit of the enhancement.

1.4. However, in relation to a 12-month chargeable period which starts before 31 March 2023 but ends after that date, the position is complicated by the increase in the rate of corporation tax. Continuing the above example, with a chargeable period to 31 December *2023*, if the company was liable to the main rate of corporation tax, three months of its profits would be charged at 19% and nine months would be charged at 25%. That would mean (without any additional provision) that any capital allowances (including any Super-deduction for expenditure before 1 April 2023) would similarly be relieved for three months at 19% and for nine months at 25%. That would, however, effectively mean that expenditure which had already been enhanced to the 130% level was also benefitting from tax relief at 25%.

1.5. To counter the effective double benefit referred to in 1.4 above, Clause 11 introduces some apparently counter-intuitive arithmetic which in the case of a company which is subject to the main rate of corporation tax correctly achieves the objective of ensuring that the qualifying expenditure does not produce a tax reduction of significantly more than the target 25%. [It works out in fact at 25.26% for a 31 December 2023 year-end.]

So far, so good. But Clause 11 does not distinguish between a company which from 1 April 2023 will be subject to the main rate of corporation tax and one which will be subject to the Small Profits Rate. That means that the odd (but correct) Clause 11 arithmetical adjustment applies equally to a company which is entitled to the Small Profits Rate. This results in such a company with a 31 December 2023 year-end only getting tax relief at an effective rate of 20.4% on expenditure which had qualified for the Super-deduction and was incurred before 31 March 2023.

1.6. HMRC have confirmed our calculations of these effective tax rates.

2. Recommendation

2.1. We recommend that consideration be given to excluding the operation of the Clause 11 restricting arithmetic where a company's total taxable profits (after all capital allowances including the Super-deduction) do not exceed the lower limit of £50,000 for the Small Profits Rate (see new section 18D(2)(c) in paragraph 3, Schedule 1 of the Bill). In that way, such a company would still get approximately the same effective rate of tax relief on qualifying expenditure incurred throughout the two-year period to 31 March 2023 as a company with greater profits.

2.2. In the absence of such amendment, it will be important that government communications about the Super-deduction (including but not confined to those on GOV.UK) explain the anomalous impact of the Clause 11 restriction even where a company is paying corporation tax at the Small Profits Rate.

Association of Taxation Technicians

7 April 2021

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Note:

The Association of Taxation Technicians

The Association is a charity and the leading professional body for those providing UK tax compliance services. Our primary charitable objective is to promote education and the study of tax administration and practice. One of our key aims is to provide an appropriate qualification for individuals who undertake tax compliance work. Drawing on our members' practical experience and knowledge, we contribute to consultations on the development of the UK tax system and seek to ensure that, for the general public, it is workable and as fair as possible.

Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government and academia.

The Association has over 9,000 members and Fellows together with over 6,000 students. Members and Fellows use the practising title of 'Taxation Technician' or ‘Taxation Technician (Fellow)’ and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.