WILLKIE FARR & GALLAGHER (UK) LLP

CLIENT ALERT

UK Sovereign Immunity: Proposed Tax Reforms From April 2024

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On 4 July, the UK Government launched a consultation on its proposal to codify and change the tax treatment of foreign sovereigns. Sovereign investors, including state investment organisations such as sovereign wealth and state pension funds have long enjoyed complete immunity from direct UK taxation. This immunity has become increasingly valuable as the UK tax base has expanded in recent years and is generous compared with other major economies. While there are a number of aspects of the consultation open to comment, the UK Government appears to already have a firm idea of the shape of the new regime:

- The tax benefits of sovereign immunity would be limited to passive and portfolio-like investments. It would no longer extend to real estate assets or income from commercial activities.
- Immunity would be available for foreign sovereign States recognised by the UK Government including their respective governments, constituent federal States and Heads of State (whether a Monarch or a President and unless acting in a private or personal capacity). It is not yet clear how broadly 'government' will be defined and whether it would incorporate all entities owned and controlled by the State, including government pension schemes (which are likely to benefit from other tax exemptions).
- The new rules would apply from April 2024 and the UK Government proposes that capital gains assets would be re-based to that date so accrued gains up to that point should not become subject to UK tax.
- The regime would be enacted in comprehensive legislation. Current law is derived from sparse case law and so the new regime should provide investors with greater clarity.

The good news is that investments in company shares and fixed income securities should not generally be adversely affected.

However, sovereign investors interested in UK real estate assets are likely to see their tax profile change significantly. Such investors will wish to keep other proposed reforms under review; the headline rate of corporation tax is intended to be increased from 19% to 25% from April 2023, but the difference may not be so marked if the UK Government follows through in making long-term reforms to the capital allowances regime to encourage investment.

Further reforms to the UK tax treatment of investment funds are likely to be unveiled later this year following the successful introduction of the 'qualifying asset holding company' regime in April.

The consultation is scheduled to run until 12 September.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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