Scotland update: Land and Buildings Transaction Tax Forum; Income Tax Discussion Paper

General Features Personal tax

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The CIOT reports back from the Land and Buildings Transaction Tax Forum and on the Scottish government's income tax discussion paper.

Land and Buildings Transaction Tax Forum

At the end of October, members of CIOT's Scottish Technical Committee attended the Revenue Scotland Land and Buildings Transaction Tax (LBTT) Forum in Edinburgh. Revenue Scotland bill the six-monthly LBTT Forums as an opportunity for stakeholders with an interest in LBTT to hear about the latest developments, share experiences and discuss LBTT issues.

Revenue Scotland commenced the meeting by running through key figures from the annual report for the year ended 31 March 2017, which were published in September 2017 and are available on the Revenue Scotland website.

An operational update was provided, including statistics for payments, penalties and the support desk. Around 4% of payments are late. Revenue Scotland have identified agents where late payment is a recurring issue, and will be contacting them to discuss the reasons. Revenue Scotland have developed a new template for penalty notices, which allows multiple penalties to be shown on one notice. All of the five Tax Tribunal decisions published by the date of the Forum related to penalties. At this stage Revenue Scotland are of the view that it is too early to determine common issues or principles arising from the cases, but they will revisit this at the next LBTT Forum.

The Technical Spotlight session focused on two issues. In the area of Group Relief, Revenue Scotland set out their view that under the current legislation, LBTT group relief is not available where security has been granted over the shares in a company within a corporate group, such that there might be a future change in ownership of the shares. In order for group relief to be available, a change to legislation is required, which is a matter for Scottish government, rather than Revenue Scotland. In relation to pension fund in specie transfers there has been a delay in providing guidance, while Revenue Scotland look at representations they have received. They indicated that updated guidance would be published by the end of 2017. The view of Revenue Scotland at the time of the LBTT Forum remained the same as published in Technical Bulletin 1.

Revenue Scotland also provided an update on the Additional Dwelling Supplement. The rules were amended with effect from 30 June 2017 so that where spouses, civil partners and co-habitants purchase a new main residence, but only one party owned their previous main residence, both parties will be treated as replacing their main residence. The Land and Buildings Transaction Tax (Relief from Additional Amount) (Scotland) Bill, introduced in November 2017, is intended to make this retrospective.

Finally, Revenue Scotland have developed a new tax return for three-yearly lease reviews in respect of commercial leases. This requires less information than a full LBTT return, and the intention is for there to be some pre-population of details. From 1 February 2018 Revenue Scotland will start to remind tenants of the requirement to submit a lease review return – where a return for a lease has been made under the LBTT regime, a further return must be submitted on every third anniversary of the effective date of the lease. The new return will go live on 1 April 2018.

Income Tax Discussion Paper

The Scottish government published their promised discussion paper on income tax at the start of November 2017: The Role of Income Tax in Scotland’s Budget. In addition to considering the income tax proposals put forward by each of the main political parties in the Scottish Parliament, the paper examines four other possible approaches. The purpose of the paper was to open a debate on how Scotland finances its public services and grows its economy, in the lead up to the publication of Scotland’s Draft Budget on 14 December 2017. In particular, the Scottish government wished for discussion of whether the income tax powers they have should be used differently.

As part of the debate, the Scottish government held two roundtables in November 2017 to discuss the content of the paper. The CIOT and LITRG were both represented at one of the roundtables, which were attended by a broad cross-section of organisations, including business representatives and those from the third sector.

At the time of writing, the CIOT and LITRG are also preparing written submissions to support their contributions at the roundtable, which were welcomed as helpful both by the Scottish government and other attendees.