Barclay Implementation: a Scottish Government consultation on non-domestic rates reform

General Features

01 November 2018

The CIOT responded to a Scottish Government consultation on the implementation of several Barclay review group recommendations for the reform of the Scottish non-domestic rates system.

Non-domestic rates (business rates) have never been a reserved tax. Revenues collected by local authorities are pooled nationally within Scotland and redistributed according to an agreed formula.

The Barclay review group was set up by the Scottish Government in 2016 to make recommendations with the aim of enhancing and reforming the business rates system in Scotland to better support business growth and long-term investment and reflect changing marketplaces. The remit of the Barclay review group was also to ensure that these recommendations were revenue neutral. Thus the review was intended to result in enhancements to the existing system, rather than fundamental change. The Barclay review group published their report in August 2017.

Our response welcomed the fact that the development of communications strategies is to be part of the planning for any changes – we had noted in a previous submission that a key remedy for the likely uncertainty and disruption that a re-design of the business rates system would cause would be communications.

The consultation requested views on how the growth accelerator and the new unoccupied build relief should be treated in legislation. We recommended that, as tax reliefs (similarly to all the main rules of a tax), these should be included in primary legislation, rather than secondary. In terms of changing the reliefs from application-based to automatic, we noted that this would make it more difficult to

track the value and / or cost of the reliefs. There would also possibly be a compliance risk if the duties of the Assessor are adjusted, such that they only enter new build properties on the valuation roll on the date of occupation.

The Barclay review group recommended a switch from five yearly to three yearly revaluations, which the Scottish Government will adopt. We think that this change could improve the fairness of the system, as liabilities should better reflect current rental values and in theory create a stronger correlation with a ratepayer's ability to pay. A firm commitment to regular revaluations on dates determined significantly in advance also provides a higher degree of certainty to business than allowing decisions as to whether to rerate or not to be deferred and the amounts of tax at stake between these two options in all likelihood to grow.

From 2020, a small number of councils will have the power to increase business rates paid by out of town or predominantly online businesses, as part of a pilot. We noted that although this power will in theory enable councils to take account of local circumstances, it will undoubtedly create complexity. In addition, we thought consideration should be given as to whether this is the best policy to achieve the objective of assisting town centres.

A number of questions related to penalties, in particular for failing to provide information either to councils or Assessors. We recommended that the Scottish Government consider some of HMRC's work in relation to penalties over recent years when thinking about such penalties, in particular the five principles around which HMRC are developing their new regimes. We also noted that the level of penalties should reflect the fact that they are intended to act as deterrents rather than revenue-raising tools.

Finally, in relation to appeals, we think it is appropriate that the system should be amended such that an appeal may result in the rateable value remaining the same, decreasing or increasing. Currently, an appeal can lead only to the rateable value remaining the same or reducing. Not only could this change serve to reduce the number of speculative appeals (and therefore relieve some of the burdens on the appeal processes), but it would create a fairer system for all involved.

The CIOT submission can be found on the CIOT website.