The Finance Bill’s passage through Parliament

General Features

01 February 2019

Finance (No.3) Bill completed its Commons stages after an unusually eventful passage which saw four sets of government amendments and six opposition amendments passed.

Government amendments

A new schedule was passed which addressed concerns raised by CIOT and others that the UK had become uncompetitive following a change in 2015 which denied relief for acquired goodwill and customer related intangibles. The schedule reintroduces relief in a targeted way to attract IP rich business to the UK.

Additionally, there was a technical change to the existing proposals on intangible fixed assets in clause 25 of the Bill relating to de-grouping charges, and the increase in the rate of remote gaming duty will take effect from 1 April 2019 instead of 1 October 2019.

The schedule on entrepreneurs’ relief has added a third test to the definition of a claimant’s qualifying company. The amendments address concerns raised – including by CIOT – about the significant uncertainties in how the original wording of the Bill applied to some commercial structures. While supportive of the amendments CIOT felt that the amendments did not address the retrospective effect of the new qualifying conditions and, at our suggestion, the SNP tabled amendments to remedy this. In a truncated debate these were not pressed to the vote.

Other amendments

Four successful opposition new clauses and one amendment will require the government to carry out reviews and publish reports:

- SNP request for a review of the public health effects of gaming provisions
- Labour provision that no regulations may be made under clause 83 ('International tax enforcement: disclosable arrangements') unless the Chancellor has published a report on how the powers are to be exercised in various Brexit-related scenarios
- Labour request for a review of the effects of the tax avoidance provisions of the Bill on various groups and regions
- SNP proposal for a review of the effectiveness of the provisions of the Bill on tax avoidance
- Cross-party proposal for a review of the effect of the changes made by the offshore time limits clauses, comparing them with other legislation relating to the recovery of lost tax including specifically the 2019 loan charge. (This was an attempt to get a review of the loan charge into the Bill when a loan charge-specific review would have been ruled out of order.)

Additionally there was one government defeat in a vote at report stage. This was on a cross-party amendment relating to clause 89, which allows the government to make minor amendments to keep tax law working in the same way as it does now if the UK leaves the EU without a deal. The amendment passed by MPs prevents the government implementing the provisions of clause 89 without the explicit consent of Parliament for a 'no deal' outcome.

Our representations

Briefing notes, suggested amendments and other representations provided by CIOT, ATT and LITRG once again proved helpful to MPs during Finance Bill debate, assisting opposition and backbench MPs in carrying out effective scrutiny of the legislation and obtaining (sometimes) answers and clarifications from ministers where these were needed.

On offshore time limits (clauses 79-80) the SNP put forward a number of amendments as a result of LITRG's briefing, including challenging an unduly restrictive 'safeguard' capable of being misused by HMRC, and attempting to ensure that the measure would not apply retrospectively. Labour tabled an amendment for a de minimis threshold and raised the need for accessible information for non-native English speakers, again in response to LITRG concerns. ATT proposals that the time limits should be reduced to eight years where there is non-deliberate offshore tax non-compliance were tabled for report stage by the SNP, but were not pressed to the

vote.

On VAT (clauses 50-52), CIOT comments about the need to improve VAT guidance, to provide greater certainty and on how the 'VAT gap' might be addressed, were all highlighted. The minister agreed good guidance was important and told MPs that while, at this stage, the government did not know exactly what future VAT arrangements would look like, their aim is to have arrangements that are broadly in line with those presently in place. On other issues – especially technical questions from CIOT around VAT grouping – he said he would write to the Labour spokesman who had raised them.

Recommendations of the CIOT/IFS/IfG *Better Budgets* report on scrutiny and consultation were highlighted a number of times, including in relation to enhancing parliamentary scrutiny of tax law and the need for government to publish the evidence base behind measures. Once again the SNP spokesperson tabled an amendment calling for the public bill committee to take oral evidence from the CIOT, HMRC and other experts. Once again Labour backed this but the government did not and the amendment was defeated. CIOT concerns about the amount of the Bill not consulted on in draft, and about the amount of 'legislative tinkering' within the Bill, were also cited.

On entrepreneurs' relief, Labour quoted CIOT comments about a lack of clarity in the reforms, as well as their retroactive nature and the potential that the reforms will impact small business disproportionately. The SNP spokesperson drew attention to ATT and CIOT warnings of unintended consequences flowing from the changes.

Discussing amendments to the legislation relating to corporation tax relief for carried-forward losses, a Labour spokesperson quoted CIOT 2017 comments that the original legislation was not being given proper consideration. These comments had proved 'exactly correct' he said. The spokesperson also extensively cited CIOT concerns over the retrospective nature of capital allowance changes. A practical example provided by the ATT, showing how the operation of the temporary increase in the annual investment allowance would cause problems for some smaller businesses, was also highlighted by Labour.

A fuller report on amendments and CIOT/ATT input into Finance (No.3) Bill is available on the CIOT website.