Finance Bill 2021: committee stage round-up

General Features

08 June 2021

Finance Bill 2021 concluded a relatively uneventful committee stage on 27 April after 14 and a half hours of debate. A number of government amendments to the Bill were passed, reflecting concerns raised by external stakeholders, including CIOT.

A number of amendments suggested by ATT, CIOT and LITRG were tabled and discussed. Votes took place on a number of contentious measures, though as usual most opposition amendments and new clauses were not pushed to a vote, recognising the inevitability of their defeat, absent a significant government rebellion. With their majority of 80, the government prevailed easily in all divisions.

Briefing notes provided by CIOT, ATT and LITRG once again proved helpful to MPs during the debates, assisting them in carrying out scrutiny of the legislation and (sometimes) obtaining answers and clarifications from ministers where these were needed.

Part 1: (i) Personal taxation

Part 1 of the Bill includes the freezing of the income tax personal allowance from next year (the only clause in the Bill opposed by the opposition parties), as well as a number of COVID-19 related economic support measures.

Among the latter is clause 26, which ensures that employees who are provided with or reimbursed for the cost of a coronavirus antigen test by their employer will not be liable to an income tax charge. SNP spokesperson Alison Thewliss proposed an amendment, suggested by CIOT, that the exemption should also be extended to cover antibody coronavirus tests. Financial Secretary to the Treasury (FST) Jesse Norman disagreed, arguing that ‘antigen tests … are connected to employment, whereas antibody tests are not’.

A number of LITRG concerns relating to clause 31 (£500 payment to certain working households in receipt of tax credits) and clause 32 (which amends legislation on tax treatment of SEISS payments) were put to the minister by MPs. On clause 31, LITRG suggested an amendment, again tabled by the SNP, which would have ensured that the payment could only be recovered where it is obtained by fraud. On clause, 32 Jim Shannon (DUP) shared LITRG's concern that taxpayers who amend their self-assessment returns may be unaware that they may have to return a SEISS payment as a result, and face harsh penalties originally aimed at fraudulent claimants. He asked the minister if he had had any discussion with LITRG over these clauses. The minister replied that he maintains a strong dialogue with LITRG.

The SNP also tabled amendments responding to concerns from CIOT and others about changes to the Construction Industry Scheme. These included seeking to remove paragraphs 3 and 4 from Schedule 6, putting in place a de minimis amount of minor works to be disregarded in the operation of the scheme and delaying the changes by a year.

Part 1: (ii) Business taxation

Part 1 of the Bill also includes changes to corporation tax. Amendments considered in relation to the super-deduction included a number drafted by ATT. One sought to ensure that companies subject to the small profits rate received the same effective rate of tax relief on qualifying expenditure as companies with greater profits. Others would have avoided the additional complexity of a new definition of 'associated companies', using an existing definition instead. Both received short shrift from the FST, as did a proposal to amend the transitional provisions for the reversion of the annual investment allowance (AIA) to £200,000 to ensure smaller businesses are not caught by an AIA limit of significantly less than £200,000 for a period.

There was more positive news on hybrid mismatches, where schedule 7 amends the 2017 legislation to respond to concerns (including from CIOT) that sometimes the rules do not work as expected. Some of the changes are retrospective. In consultation responses, CIOT advocated a simple mechanism for earlier years' computations and returns to be amended. We are pleased that this has been dealt with by the introduction of a provision allowing a taxpayer to make an election to make the changes retrospective, and for the necessary administrative changes to reflect that position in relation to corporation tax returns, etc. to flow from that election. During committee stage, no fewer than 26 technical government

amendments were passed to schedule 7, reflecting further representations made by stakeholders.

Extension of trading loss carry back is something CIOT had suggested a number of times over the past year, with the Institute's now President making the case for it while on a panel with the FST in October. Proposing clause 18, which implements the extension, the FST noted approvingly the CIOT's support for the measure. Both Alison Thewliss for the SNP and James Murray for Labour, while supporting the measure overall, highlighted LITRG concerns about the potential interaction of any tax refund under this provision with universal credit. The FST promised to listen to their concerns and respond accordingly.

On clause 20 (extension of social investment tax relief for further two years), James Murray (Lab) drew attention to CIOT concerns around complexity and SITR being less well-suited to loan investments. Murray also noted CIOT's view that extension of SITR for just two years might put off some long-term investors, prompting a Labour amendment suggesting a longer extension. Responding, the FST said the extension is limited to two years because all reliefs must show they are achieving their objectives.

Parts 2 and 3: Plastic packaging tax and VAT

Part 2 of the Bill implements the new plastic packaging tax.

While supporting the tax, Shadow Exchequer Secretary Abena Oppong-Asare raised a number of points from CIOT's briefing, including the burdens that businesses may incur as a result of joint liability, the position of non-resident taxpayers, and a call for greater clarity around what constitutes an established place of business in future regulations. Exchequer Secretary Kemi Badenoch replied that the government does not believe that there will be a large number of businesses liable for the tax that do not already have a UK presence. But, she said, HMRC will take on board points raised.

One of the measures in Part 3 extends the duration of a reduced rate of VAT for the hospitality and tourism sectors. ATT noticed that the legislation gives HMT the power to increase or decrease the period for which a 12.5% rate applies with potentially little notice, reducing certainty and presenting potential practical issues. Amendment 64, drafted by ATT, proposed that the clause be amended to remove the ability for HMT to reduce the period. The minister argued against this, citing the

need for flexibility.

Part 4: (i) Penalties

Debating the new penalties regime, MPs considered two ATT-drafted amendments. Amendment 24 would have reduced the time limit for assessment of a penalty for failure to make a return in the more common situations from two years to three months. The FST disagreed with the proposal, arguing that the two year time limit is longstanding and strikes a careful balance. Peter Grant (SNP) thought that if there were circumstances where two years were needed, they should be identified in the Bill.

Amendment 25 would have ensured that taxpayers who pay one instalment late under a Time to Pay arrangement with HMRC are not subject to excessively high penalties by being treated as if the TTP agreement had never existed. Proposing this, Peter Grant thought it unfair that someone who makes a TTP agreement but misses one payment by a short period, is treated the same as somebody who makes no attempt to pay on time. The FST, arguing against the amendment, claimed erroneously that it would remove any penalty for a taxpayer who fails to fulfil the terms of a TTP arrangement. Neither of the amendments was pressed to a vote.

Labour's shadow minister, James Murray, highlighted a number of LITRG concerns about the new regime, including that the legislation is far more complex than originally envisaged. Responding, the FST said a number of LITRG concerns have been taken on board during consultation, while CIOT had praised the initial light touch being given to the new regime.

Part 4: (ii) Other measures

Clause 116 of the Bill harmonises interest charges on repayment interest to bring VAT into line with other taxes. In response to CIOT representations, a government amendment was passed allowing for repayment interest to be paid for the period that the tax authority undertakes an enquiry.

On clause 122 (financial institution notices), shadow minister James Murray noted LITRG concerns that this represents the removal of important taxpayer safeguards. On clause 123
(collection of tax debts), Murray flagged up CIOT concern that the new notices are not restricted to cases involving tax years after the date this measure becomes law.

On freeports, Abena Oppong-Asare (Lab) drew heavily on questions identified by members of CIOT's Property Taxes Committee, including how freeport sites will be designated,
the treatment of joint ventures where there is both commercial and residential development, and the issue of relief for subsequent non-qualifying activity. While there was little enlightenment on these matters, the minister was able to address another issue raised by a member of that committee, passing amendments to enable those using sharia compliant finance to benefit from a freeport SDLT tax break in the same way as those using conventional finance.

A longer version of this report can be read on the CIOT website at: www.tax.org.uk/FB2021.