Autumn Budget 2021 and Finance Bill: ATT, CIOT and LITRG comment

General Features

30 November 2021

On Budget Day, 27 October, the ATT, CIOT and LITRG technical teams published several press releases, including some welcome changes that we had suggested. We commented generally on the lack of tax simplification – instead, the government continues to add to the number of taxes. Our focus is now on the Finance Bill, published on 4 November – comments are welcome.

Our comments on some of the key areas below draw upon our press releases on Budget Day, our comments made to the Treasury Committee and our initial review of the draft legislation.

Annual investment allowance (AIA)

One potential opportunity for simplification was identified by the ATT in its welcome of the Chancellor's announcement of an extension of the temporary increase in the AIA to 31 March 2023 (see www.att.org.uk/PR_AIA). This extension of the period in which businesses can obtain full tax relief on a higher level of qualifying capital expenditure is good news for businesses whose annual capital spending exceeds £200,000, particularly if their profits are charged to income tax rather than corporation tax. (Many of the businesses whose profits are charged to corporation tax are likely to be insulated from the impact of the transitional provisions following the introduction of the super deduction from 1 April 2021.)

ATT said that this extension presents an opportunity to simplify the transitional rules to help the many smaller businesses whose annual capital expenditure never exceeds £200,000 but which can nevertheless be caught out by the odd transitional rules. HMRC's Policy Paper (see tinyurl.com/wxyj3mrm) referred to 'more detailed transitional rules for businesses subject to income tax and with a tax period

spanning the date of the decrease of the AIA limit on 1 April 2023' but the Finance Bill has not taken the opportunity to amend the transitional rules.

Basis period reform

At the Budget on 27 October, it was confirmed that reform of the basis period rules will go ahead from April 2024, with a transitional year from April 2023. Under these reforms, from 6 April 2024, unincorporated businesses will be taxed on the profits which they actually earn in any tax year to 5 April (or 31 March). Under current rules, businesses pay tax on the profits earned in their accounting year which ends in that tax year.

The ATT, CIOT and LITRG had previously called for basis period reform to be delayed from its originally planned introduction date of April 2023 (with a transitional year from April 2022). Such a delay was confirmed by the government on 23 September 2021.

Prior to the Budget, the ATT, CIOT and LITRG gave evidence on the proposed basis period reform to the House of Lords Economic Affairs Committee's Finance Bill Sub-Committee as part of their inquiry into Draft Finance Bill 2021-22. A summary of the evidence given during the evidence sessions we took part in can be found in the blog on the CIOT website at www.tax.org.uk/blogbasisperiod.

On Budget Day, the ATT said that the Budget announcement provides some welcome certainty, allowing affected taxpayers to begin preparations for the potentially significant additional administrative burdens and tax bills which could arise from this reform. But the ATT also emphasised that it is vital that HMRC make use of this extra time to further explore how the practical and financial impacts on relevant businesses could be limited (see www.att.org.uk/PR_tax_reporting_reform).

The CIOT agreed with this and said HMRC's efforts should now be directed towards making this process as streamlined and simple to apply as possible, to limit the ongoing time burdens and costs involved. The CIOT said that the estimate in the impact assessment for the one-off costs for businesses – including familiarisation with the rules, updating software, and deciding whether to change their accounting date to 31 March or 5 April – is unrealistic. The CIOT also noted that reform of the basis period rules will result in a significant acceleration of tax payments by businesses affected by the change; the £1.7 billion raised by the measure over the next five years makes it the biggest tax raising measure confirmed by the Budget

(see www.tax.org.uk/prsetaxreform).

Capital gains tax payment window

The ATT and CIOT welcomed the Chancellor's move to increase the deadline for reporting capital gains tax (CGT) on residential property disposals which complete on or after Budget Day
(27 October 2021) from 30 days to 60 days.

However, the CIOT said that it remains concerned that the system for reporting these gains is difficult for taxpayers to interact with and that there are low levels of awareness of the requirement to report among taxpayers (see www.tax.org.uk/prdoublingcgtreporting). ATT echoed this and said that it would still like to see the government do more to alert landlords, second homeowners and others to these obligations (see www.att.org.uk/PR_ext_CGT_payment).

The CIOT also welcomed changes to CGT legislation to correct an anomaly that obliges a UK taxpayer to declare capital gains by reference to both the residential and commercial portions of a mixed-use property under the 60 day reporting, despite the policy intent that CGT is only returned under the 60 day service on the residential portion of the property.

Employment taxes: flexible powers

The ATT welcomed the Budget announcement that the government will give ministers greater ability to introduce necessary income tax and NIC reliefs in the event of future disasters or emergencies of national significance, following a Budget representation on employer-provided and employer-funded coronavirus testing (see www.att.org.uk/ref386).

When the pandemic hit last year, in addition to managing the major new support measures such as the Coronavirus Job Retention Scheme, employers found themselves having to consider the tax implications of a number of additional expenses. Such payments included reimbursing employees the cost of equipment so they could work at home, or paying for employees' COVID-19 tests. Under tax laws at the time, such payments could have created benefit in kind charges for both employees and employers.

While HMRC moved swiftly to clarify the tax position for some of these, there was a period of uncertainty for employers and employees over whether such costs would cause tax issues down the line. The ATT concluded that any new measures that make it easier for HMRC to react swiftly and remove tax obstacles from employers and employees in such extraordinary circumstances are very welcome (see www.att.org.uk/PR_tax_relief).

Green taxes

The CIOT welcomed the Chancellor's decision to increase the amount of air passenger duty (APD) paid on long-haul flights. However, it questioned whether the decision to introduce a new lower rate of APD on UK domestic flights is the right message at this stage, and how this is compatible with the UK's climate ambitions while aviation decarbonisation strategies to reach Net Zero are still works in progress.

The CIOT also welcomed a number of other environment related tax announcements contained in the Budget, including exemptions from business rates for the installation of onsite renewable energy generation and storage, and a new 100% relief for eligible heat networks. These are aligned with the government's agenda for the decarbonisation of buildings, as outlined in the ten point plan (see tinyurl.com/5jy3fajs).

The CIOT has called for the government to develop a climate change tax policy roadmap (see www.tax.org.uk/climatechangeroadmap). This would assist in developing a more strategic and coherent approach to tax policies that affect the environment.

Indirect taxes

In its comments to the Treasury Committee Inquiry, the CIOT welcomed the simplicity of the proposed alcohol duty reform regime, and particularly that stakeholder feedback has informed the proposals published for consultation on Budget Day (see tinyurl.com/cxmx7phd). It would be beneficial for the consultation to consider the objectives of the tax and how best to reconcile or balance them with health and budgetary concerns: that is to say, curtailing alcohol abuse, the need to raise revenue, and helping the hard-pressed hospitality and leisure sectors.
The CIOT still has concerns around the existing high level of burdens on obtaining excise approvals, though notes that the consultation allows stakeholders further

opportunity to propose administrative simplifications to shape future policy for alcohol duty.

Notification of uncertain tax treatment

The Budget confirmed that the government will introduce the new compliance burden for large businesses, requiring them to notify HMRC where they have adopted an ‘uncertain tax treatment’, from April 2022. Uncertain tax treatments will be defined by two criteria: that a provision has been made in the accounts for the uncertainty; or that the position taken by the business is contrary to HMRC’s known interpretation (as stated in the public domain or in dealings with HMRC).

The CIOT welcomed the announcement in the Budget that a third criterion (that of where there is a substantial possibility that a tribunal or court would find the taxpayer’s position to be incorrect), the most problematic element of the new compliance burden on large businesses, has been dropped, at least for now. It shows that the government has continued to listen to stakeholders. There has been significant engagement with HMRC and HMT, and a willingness to discuss the concerns we raised throughout the consultation process. Nevertheless, because of the starting point for the measure (stage 2 of the tax consultation framework), notwithstanding the improvements that have been made, we remain unconvinced that the measure is needed at all or that it will achieve the stated policy aims effectively or proportionately (see tinyurl.com/kdmjp52p).

This measure is also being considered by the House of Lords Economic Affairs Committee’s Finance Bill Sub-Committee as part of their inquiry into Draft Finance Bill 2021-22, and ATT and the CIOT gave evidence on this measure in its evidence sessions prior to the Budget. A summary of the evidence on this measure can also be found in the Blog on the CIOT website at www.tax.org.uk/blogbasisperiod.

Pension inequality for low-income workers

LITRG welcomed the Budget announcement which will end the injustice that over a million low-income workers (mostly women) lose out on pensions tax relief.

This was the long-awaited response to the government’s call for evidence on pensions tax relief administration, in response to which LITRG had called on the government to resolve the inequality affecting workers in net pay arrangement (NPA) pensions schemes (see Notes for editors at www.litrg.org.uk/ref2573). The

issue arises because affected workers do not get tax relief on some or all of their pension contributions if they do not earn enough. By contrast, if their employer chooses to operate a relief at source (RAS) scheme, the worker obtains tax relief via a separate mechanism, even if they are a non-taxpayer. The solution involves providing the former group with a ‘top up’ payment to give them the same tax relief as those in RAS pension schemes.

Commenting on the Budget’s announcement, LITRG said that the process for the top-up payments should be made as straightforward as possible, and are disappointed that the change will only come into effect from 2024/25 (see www.litrg.org.uk/ref2573).

Scotland

The CIOT commented on some of the implications of the UK Budget on Scotland, focusing on the implications for income tax, air passenger duty and changes to universal credit and the national minimum wage. Further details can be found in the press release at tinyurl.com/6djvy38b.

Universal credit taper

LITRG welcomed the Budget announcements that the universal credit taper rate will be reduced to 55%, the universal credit work allowances will be increased by £500 a year and the national living wage will increase to £9.50 an hour. However, the complex interactions between the tax, national insurance and benefit systems mean that the headline figures may not give people the full picture. LITRG also highlight that the changes will not be replicated for working tax credit claimants (see www.litrg.org.uk/ref2574).

The ATT, CIOT and LITRG will remain engaged with the Finance Bill as it goes through Parliament, so if you have any comments on the draft legislation or other matters raised by the Budget, please get in touch at technical@ciot.org.uk or atttechnical@att.org.uk.