Finance Bill committee stage update

Technical General Features

27 January 2022

MPs have finished committee stage debate on Finance Bill 2021-22 after nearly 10 hours of debate. All 102 clauses and 16 schedules were passed, along with 12 technical government amendments (and none of the opposition's).

CIOT, ATT and LITRG together provided 16 briefings and representations to the MPs considering the Bill, to support the scrutiny process and highlight possible flaws and areas of uncertainty. They were cited 17 times during the debate. Read them at tinyurl.com/5n767e6e.

Committee of Whole House

Committee stage began with Committee of Whole House (CWH) on Wednesday 1 December. CWH takes place on the floor of the House of Commons. The clauses for debate are selected by opposition parties, and any MP who wishes to can contribute to the debate.

The first CWH group of clauses included the only clause opposed outright by the opposition (clause 6 – the cut in the banking surcharge), as well as changes to the tax rate for dividend income, basis period reform and the annual investment allowance (AIA).

ATT, CIOT and LITRG all drew attention in briefings to the additional burden the basis period changes will bring for those businesses that need to use an accounting date other than the tax year end. Quoting from the CIOT briefing, the Shadow Financial Secretary James Murray asked what support there will be for those affected. The Financial Secretary Lucy Frazer responded that most affected businesses are represented by a tax agent, but HMRC are exploring how best to help unrepresented taxpayers through the change.

Clause 12 extends the higher limit of AIA for a further 15 months. ATT's briefing noted that a trap in the transitional provisions may result in a business having its effective AIA limit restricted for a time to significantly less than either of the limits being transitioned between. ATT suggested an amendment to rectify this, which was tabled by the SNP. Responding, the minister said she was alive to the points raised, 'but we believe that businesses should have sufficient time to plan to take advantage of the maximum entitlement for the AIA for any investment.' The amendment was not pressed to a vote.

A further group of CWH clauses covered a range of compliance-related measures. On promoters of tax avoidance, a CIOT briefing was broadly supportive of the measures but observed that there was a feeling among tax professionals that HMRC frequently ask for new powers, while not making full use of those they already have. On the economic crime (anti-money laundering) levy, a CIOT/ATT briefing warned that any lowering of the threshold to take in smaller firms could contribute to driving them from the market, or incentivise de-professionalisation (leaving professional bodies). Both these points were put to the minister but did not obtain a direct response.

Public Bill Committee

The remaining clauses were considered 'upstairs' by a committee of MPs over five sittings in December and January.

Part two of the Bill introduces the residential property developer tax (RPDT). CIOT has praised the government for aligning the new tax with corporation tax mechanisms and this was noted by the Shadow Financial Secretary during debate; however, he also drew attention to a number of CIOT's continuing concerns. These included why the supposedly time-limited legislation had not come with a sunset clause. The Financial Secretary simply reiterated that the tax *will* be time limited and will be repealed once £2 billion has been raised. The minister gave no indication that build-to-rent profits could be brought into scope of RPDT in the future, saying that it is 'a very different sector in which profits are earned in a different manner at a different time'.

During debate on 'greening' the tax system, the Shadow Exchequer Secretary Abena Oppong-Asare highlighted the CIOT's climate change tax policy road map. The Exchequer Secretary Helen Whately thanked her and said that HMRC is exploring options to further strengthen how they measure the environmental impact of tax

measures. In response to a question about road pricing, the Exchequer Secretary said only that the government 'recognise the need for motoring taxes to keep pace with the transition to electric vehicles'.

The Bill contains a small change increasing the size of the Office of Tax Simplification's board. CIOT suggested to the committee that the government's failure to adopt most substantial OTS recommendations posed broader questions about the OTS's role and the government's commitment to simplification.

This was put to the Financial Secretary by her Labour shadow, but she responded that the OTS was 'performing an important function in making recommendations which the government can then look at' whether or not these are taken up. She did not accept the CIOT suggestion that the government should commit to responding formally to every OTS recommendation within a prescribed timeframe.

In response to other points raised by CIOT and LITRG via opposition spokespeople:

- **Pension annual allowance charge:** The minister opposed a CIOT-inspired amendment to move a notification deadline to avoid taxpayers having to make arrangements unreasonably hastily, arguing it could leave individuals liable to pay a tax charge out of their own pocket in some circumstances.
- **Normal minimum pension age:** The minister agreed the importance of providing advice in this area.
- **Theatre tax credit:** The minister acknowledged that productions where work began just before the higher rate commenced will not benefit from it, but said this was because the measure was targeted to incentivise new activity.
- **CGT reporting and payment:** The minister said that HMRC regularly engage with agents and other stakeholders but did not indicate any plans for raising awareness around this process more widely.
- **Dormant Assets Scheme:** The minister was unable to say when guidance would be published.
- **Uncertain tax treatment:** The minister defended the measure as proportionate, stressing it would only affect the largest businesses.
- **Discovery assessments:** The minister argued that while this was retrospective *legislation*, it was not retrospective *taxation* as the tax was always due.

For detailed reports and further updates see: www.tax.org.uk/blog/1

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