Scotland update: round-up of submissions

General Features

04 December 2015

Round-up of CIOT submissions

Finance Committee

The CIOT made a submission in response to the Finance Committee of the Scottish Parliament's call for evidence on the Land and Buildings Transaction Tax (LBTT).

The submission focused on the final question about the performance of Revenue Scotland in administering and collecting the tax during its first six months of operation. The other questions related to the rates and bands, which are not normally matters on which we comment.

The CIOT response noted that the general view was that, for day-to-day conveyancing, the system is working well because the LBTT forms are generally simpler and quicker to complete than the stamp duty land tax (SDLT) equivalents. For leases, however, the requirements under LBTT are more burdensome than those under SDLT, particularly for those occupying a large number of properties.

We suggested some possible improvements. Revenue Scotland provide an email query facility to deal with general issues and questions 'in principle'. Responses from this channel refer to Revenue Scotland guidance. We suggested that the responses should be referenced to the tax legislation too.
Revenue Scotland also provide an opinions service for specific transactions. The target response time is 25 working days. We suggested that more resources should be provided to this service so that a more commercial turnaround period can be achieved.

We also suggested that guidance should be reviewed and updated when multiple queries are received about the same issue. In addition, we reiterated our view that the guidance needs to be dynamic, with examples being added over time.

Scottish tribunals

The CIOT responded to the Scottish government consultation, Draft Regulations that Prescribe Eligibility Criteria for Appointment to the Scottish Tribunals. The response primarily considered the draft regulations in respect of ordinary members of the tax jurisdiction of the First-tier Tribunal for Scotland. The regulations on tax-related appointments will not take effect until the existing Scottish tax tribunals (established by the Revenue Scotland and Tax Powers Act 2014) become part of the Scottish tribunals. This is expected to happen in spring 2017.

The CIOT broadly agreed with the Scottish government's proposed approach. In particular, we welcomed the provision for the automatic eligibility of CIOT members to serve as ordinary members in the First-tier Tribunal. This was something we had previously suggested during the consultation on the draft Scottish Tribunals (Eligibility for Appointment) Regulations 2014.

The CIOT also suggested that there should be some indication as to the meaning of the term 'substantial' in draft reg 4, which allows for the possibility of an individual gaining eligibility to serve as an ordinary member of the First-tier Tribunal through experience. By way of comparison, the response notes that draft reg 2 requires legal members of the First-tier Tribunal for Scotland to have five years' experience. The CIOT said consideration should be given as to whether some sort of time limit should also be specified on 'substantial experience' for ordinary members.