Scotland update

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A round-up of recent events including two submissions and a meeting of the Devolved Tax Collaborative

The Scottish Government published its draft Budget 2016–17 in December and announced its tax proposals for 2016–17. In particular, the first Scottish Rate of Income Tax (SRIT) will be set at 10%. When combined with the income tax still payable to Westminster, which is set at rates 10% lower than the basic, higher and additional rates for the rest of the UK, there will be no change in the overall rates payable by Scottish taxpayers for 2016–17.

The Scottish landfill tax rates will be uprated by inflation for 2016–17, with the aim of matching those for the rest of the UK.

The rates and bands for land and buildings transaction tax (LBTT) will remain at their 2015–16 levels. After a similar announcement in the UK government's Autumn Statement, there is a proposal that, from 1 April 2016, LBTT will include a 3% supplement on transactions over £40,000 involving additional residential properties, such as for buy-to-let properties or second homes. The Scottish government will consult on legislation and the CIOT will respond.

LITRG has updated its online guidance for Scottish taxpayers after the announcement of the rate for SRIT. This is available on LITRG's website.

The Commission on Local Tax Reform

The Commission on Local Tax Reform published its final report in December after months of consultation to which both CIOT and LITRG contributed. This does not recommend any single alternative to the present council tax system, but aims to

inform new policies by setting out various options, including a property tax, a land value tax and a local income tax.

The report is available on the Commission's website.

The Tribunals (Scotland) Act 2014 – draft regulations

The CIOT and LITRG made a joint submission in response to the Scottish government consultation on two sets of draft regulations which make provision for: a time limit within which to seek permission to appeal against a decision of the Scottish Tribunals and Rules of Procedure for the Upper Tribunal; and offences in the Scottish Tribunals. Although the Scottish Tribunals do not currently deal with tax cases, we expect the Scottish Tax Tribunals to become part of the Scottish Tribunals in spring 2017. We responded to this consultation in the light of these anticipated future developments to ensure that the regulations and rules of procedure are appropriate for tax cases.

The response notes that effective case management is essential, both in ensuring that special needs are catered for and that cases are heard efficiently and by the most appropriate panel. We note that appeals can be biased against those unable to afford representations – it is important that case management does not exacerbate this.

Although we think the 30-day time limit proposed is acceptable, we raise concerns about a lack of balance, in that the period runs from the date of sending or issue (by the tribunal) to when the application is received (by the tribunal) from the appellant. It would be more equitable if the 30-day period used the same basis for each party: date of receipt for both, or date of sending for both.

In respect of offences, and in particular that of failure to attend or give evidence, we point out that the regulations should be amended so that it is clear that an offence could arise only when a party was in no doubt that the tribunal was exercising a power requiring attendance.

The submission is available on the CIOT and LITRG website.

Scottish Landfill Tax (SLfT) loss on ignition testing for waste fines

The CIOT responded to the Scottish government consultation paper on Scottish landfill tax (SLfT) loss on ignition testing for waste fines. We had previously responded to the equivalent HMRC consultation on the UK regime in September 2014. Our response to the Scottish government's consultation draws on our submission to HMRC, focusing on sampling. The remainder of the questions are of a technical, landfill nature and our response does not concern itself with them.

Revenue Scotland introduced a loss on ignition test via their guidance in September 2015, which broadly reflects the UK position. The Scottish government wishes to place this on a statutory footing to provide certainty.

The proposal is to adopt a sampling approach in order to verify that fines qualify for application of the reduced rate. Our response emphasises the need for a proper statistically based method of testing, which is capable of proper evaluation (the approach in the consultation does not appear to be statistically based).

The submission is available here.

Devolved Tax Collaborative

The CIOT and LITRG attended a meeting of the Devolved Tax Collaborative in early December 2015, organised by Revenue Scotland.

The plenary sessions of the meeting covered various topics, including a review of the first six months of operation of Revenue Scotland since it started to administer and collect land and buildings transaction tax (LBTT) and Scottish landfill tax (SLfT) on 1 April 2015. Speakers also looked ahead at likely future tax powers and the new tax administration programme (NTAP). This involved setting out a possible timescale for the introduction of a Scottish air passenger duty (APD). The Scottish government hopes APD will be devolved to Scotland from April 2018.

There were workshops on Revenue Scotland communications and the SLfT consultation on loss on ignition testing for waste fines. In the context of communications, Revenue Scotland feels it has been largely successful, and this has

been a result of the significant collaboration with stakeholders, such as the CIOT.

HMRC provided a guest speaker to update stakeholders on SRIT. This was particularly topical because, at the time of the meeting, HMRC was in the midst of issuing notification letters to individuals they believed were Scottish taxpayers before the announcement of the rate. Although these letters provide links to HMRC guidance online, they do not contain a telephone contact number. LITRG issued a press release about this, since it is clear that many taxpayers will in fact wish to speak to HMRC about these letters.

HMRC also informed stakeholders that Scottish PAYE taxpayers will not receive a new coding notice simply because of the addition of the S-prefix to their code – they will receive one only if there is another change in their circumstances.

Papers and notes of the more recent meetings of the Devolved Tax Collaborative are accessible on Revenue Scotland's website.