Scotland update

Personal tax

01 April 2016

A round-up of recent events in Scotland

LBTT additional homes supplement reference group

Representatives of the CIOT attended two meetings set up by the Scottish government to consider the proposed additional homes supplement of 3%. This will apply to purchases in Scotland of additional homes costing more than £40,000 on or after 1 April 2016.

The first meeting followed the publication by the Scottish Parliament of the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill. The second meeting followed the publication of proposed amendments to the Bill, which was passed by the Scottish Parliament on 8 March and is now the Land and Buildings Transaction Tax (Amendment) (Scotland) Act 2016.

The Bill as originally drafted contained no relief provisions. At the first meeting, there was discussion about possible reliefs, including for large transactions (six or more dwellings) and for the acquisition of a dwelling by an employer (including a partnership) to house an employee. However, most of the meeting was spent discussing a possible ‘grace period’ of 30 days to cover the situation when purchasers of a new principal residence find themselves owning two properties because the sale of the first one has fallen through or has been delayed. Other issues touched on included trusts, executors of death estates, partners in a partnership and common property.

At the second meeting, representatives of the Scottish government set out their proposed amendments to the Bill, which were due to be moved by Deputy First Minister John Swinney at the stage two proceedings on 2 March. The representatives

told the meeting the government did not anticipate any further amendments or movement from the policy decisions already taken.

The proposed amendments, now reflected in the Act, ensure that the legislation provides for:

- No supplement to apply if the second dwelling costs less than £40,000.
- No supplement to apply if a partnership whose business is not property rental (such as farming) buys a dwelling for an employee.
- A relief for acquisitions of six or more dwellings.
- A relief intended to operate as a grace period – if at the time of acquisition of the new home the present home is not sold but it has been by the time the return for the acquisition is to be lodged, no supplement is due.
- No supplement to apply if a trustee of a trust which owns a dwelling acquires a dwelling for him/herself.
- A person who has a lease of a property for more than 20 years is deemed to own a dwelling.
- A life renter in Scotland is deemed to own a dwelling and liable to the supplement if they acquire a second one.
- If a person entered into a contract to buy on or after 16 December 2015, but before 28 January 2016, and the transaction competes after 1 April 2016, no supplement applies – it is due only if the transaction is entered into on or after 28 January 2016 and is completed on or after 1 April 2016.

The Scottish government has published notes of the meetings here.

Separately, CIOT representatives commented on draft legislative guidance prepared by Revenue Scotland on the additional homes supplement.

Scottish taxpayers – is HMRC issuing S codes correctly?

It has come to our attention that some Scottish taxpayers are incorrectly receiving tax codes for 2016/17 that do not contain the S prefix.

HMRC has started to issue tax codes for the 2016/17 tax year. HMRC previously sent out notification letters in December 2015 to individuals it identified as Scottish taxpayers. The expectation was that the coding run for 2016/17 would include the

issue of tax codes to Scottish taxpayers, and that they would receive S codes – their tax code would feature an S prefix.

Not all Scottish taxpayers will receive a coding notice, since the S code is not a trigger for the issue of a form P2 coding notice – thus only Scottish taxpayers who receive a P2 coding notice for some other reason, such as the inclusion of a new source of taxable income, will receive a notice.

Unfortunately we understand that some individuals, who appear to be clearly Scottish taxpayers, have received notices showing codes that do not incorporate the S prefix. It appears that they may also not have received a Scottish taxpayer notification letter in December 2015.

HMRC indicates that it identified Scottish taxpayers on the basis of the addresses it holds for individuals. The issue appears to involve individuals whose only or main address is in Scotland, to where HMRC already issues correspondence.

We contacted HMRC about the issue and it provided us with the following statement:

> 'It is important for us to issue the correct tax codes to ensure that the right amount of tax is deducted and know that the right government receive the funds. If the notification letter or S coding have not been received we would encourage customers who think they have the wrong tax code to check the guidance on "Who is a Scottish taxpayer" and then get in touch to update their details if they believe that they have the wrong code.'

If this issue affects you or your clients, you should first double-check what you think their status should be. You can use HMRC's guidance or consult the guide on the LITRG website. If you still think that the coding is incorrect, contact HMRC. Make sure that the department has the correct address for your client.

It would also be helpful if you could let us know if you encounter this issue at technical@ciot.org.uk or atttechnical@att.org.uk.