Finance Bill: Summary of CIOT/ ATT work

General Features

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We report on the CIOT, ATT and LITRG's coverage during the Finance Bill debates, and highlight where we have achieved some successes – and where we have not.

The House of Commons concluded its committee stage debate on Finance Bill 2016 on 7 July after just eight sittings, including two days of consideration in a committee of the whole House – one of the briefer committee stages for a recent Finance Bill outside the pre-election 'wash-up' period.

During these sittings the CIOT was cited or otherwise mentioned in 21 discussions, with LITRG quoted in three and the ATT also featuring three times.

This prominence is largely a result of the extensive work our technical and external relations teams put into preparing briefing notes to assist MPs scrutinising the Bill.

We have three main motives. First, we see it as part of our public benefit objective of 'being available for consultation by legislators, regulators and administrators of tax law and others and by producing high-quality representations and responses'. Most of the work we do in this area is in response to requests and consultations from HMRC and other branches of government, but we also make ourselves available to politicians outside government, and the Finance Bill is generally the time when this is most valued by them, especially shadow ministers.

Second, there are often parts of the Bill where the government's intention is unclear – whether due to unintentional ambiguity, poor drafting or deliberate obfuscation. Encouraging MPs to challenge ministers with probing questions can be a useful tool when seeking clarification and obtaining commitments to explain matters in guidance.

Third, and perhaps more optimistically, we are always hoping that, where we have concerns, ministers may listen to our carefully reasoned arguments and be willing to make late changes to the Bill, or (less ideally but better than nothing) at least keep the legislation under review in order to bring forward changes in a future Finance Bill if the evidence of implementation bears out our fears.

All of this is done for the same reasons as the rest of our technical activity – in pursuit of a simpler, more workable system for taxpayers, with greater certainty and minimal administrative burdens, the interests of both represented and unrepresented taxpayers considered, and a fair balance between the powers of tax collectors and the rights of taxpayers. We always aim to ensure that nothing ministers hear when we are cited should surprise them, as long as their officials keep them briefed.

There is one area where the government did bring forward changes in this year's Bill as a result of representations from ourselves and others. This was on entrepreneurs' relief (ER) where cll 73-75 dealt with unintended consequences of Finance Act 2015 anti-abuse changes to ER, which were featured in August 2016's Technical Newsdesk. The CIOT had been at the forefront of pressing for changes to the 2015 legislation, and – alongside others on the ER stakeholders' group – for further amendments to the clauses as originally drafted, fearing they could have an adverse retroactive effect.

We were pleased that such amendments were tabled and that the role of the institute in raising concerns about the wording of the legislation was recognised by the shadow minister in the House of Commons debate.

We obtained helpful commitments and reassurances in several areas, thanks to shadow ministers raising our points in debate. These included:

- The tax treatment of payments from sporting testimonials (cl 12 and Sch 2).
- The structure of income tax rates post-devolution (cl 6).
- Pension flexibility provisions (cl 22 and Sch 5).
- Farmers' averaging (cl 25).
- Corporate debt (loan relationships) and derivative contracts (Sch 7).
- The new serial avoidance regime (Sch 18).
- Simple assessments (cl 155 and Sch 23).

Further information can be found in the detailed note of committee stage debates – see below.

Of course, not every briefing note we provide is cited, and not every point raised in discussions on the Bill receives the response we had hoped for. Proposals from the ATT for changes to the renewals allowance legislation (cl 68), concern from LITRG about a cliff edge applying to the personal savings allowance (cl 4) for some taxpayers, and a request from the CIOT for clarification on the definition of 'business intermediaries' in the context of HMRC's data-gathering powers (cll 164-165) were among the issues raised in debate but failed to gain traction. Overall, however, the work put into supporting Finance Bill scrutiny by our technical officers, sub-committee chairs and external relations team was again worthwhile, not only in raising the profile of the CIOT, ATT and LITRG but in helping to improve the quality of parliamentary debate and ultimately, alongside our other technical work, helping to make tax legislation more workable and the information available to taxpayers and their advisers clearer.

NB1 – Clause numbers refer to the version of the Bill debated at committee stage. Most clauses have since been renumbered to accommodate new clauses.

NB2 – The CIOT external relations team have produced a detailed note of committee stage debates on Finance Bill 2016, which can be read on the CIOT website.