Scotland update – a call for evidence on the land and buildings transaction tax

General Features Personal tax

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The CIOT responded to a call for evidence issued by the Finance Committee of the Scottish Parliament to assist its inquiry into the operation of land and buildings transaction tax (LBTT). The CIOT response focused on the extent to which the rates and bands are consistent with some of the tax principles adopted by the Scottish Government, whether there should be any changes to the rates and bands, and the performance of Revenue Scotland in administering and collecting the tax.

The Finance Committee of the Scottish Parliament issued a call for evidence (tinyurl.com/jzs5rse) at the end of June to assist its inquiry into the operation of land and buildings transaction Tax in its first full year (1 April 2015 to 31 March 2016). The inquiry also considered forecast tax revenues in comparison with actual outturn figures.

The Scotland Act 2012 devolved stamp duty land tax (SDLT) to the Scottish Parliament. The resultant LBTT came into effect on 1 April 2015, when SDLT was switched off. The call for evidence made no direct reference to the LBTT additional dwelling supplement, which was introduced on 1 April 2016.

The inquiry asked questions about the effects of the rates and bands on the property market, the level of receipts in relation to the forecasts and the impact of forestalling and whether the tax was likely to make long-term changes to the property market or just short-term ones. The CIOT response focused on the other questions, which concerned the extent to which the rates and bands are consistent with some of the tax principles adopted by the Scottish Government, whether there should be any changes to the rates and bands and the performance of Revenue

Scotland in administering and collecting the tax. The CIOT gathered views from members who encounter LBTT.

The CIOT noted that the rates and bands in the first year of operation were fairly consistent with the principles of fairness, equity and ability to pay. This is in large part due to the decision when designing the LBTT not to adopt a slab system, ruling out ‘cliff edge’ effects when the consideration for a transaction moves into a higher band. The jump from a 5% rate to 10% for residential transactions for consideration exceeding £325,000 nevertheless means that the overall rates of LBTT are significantly higher for high-value transactions.

Although we do not generally comment on what the rates of tax should be, the submission responds to the question of whether there should be any changes to the rates and bands of LBTT in the draft budget for 2017-18. In our view, the setting of tax rates and bands for LBTT (and whether there should be any changes) should flow from policy decisions as to the aims of the Scottish Government and Parliament for LBTT. There must also be an awareness of the likely direct and indirect impact of any changes – in terms of the effect on taxpayer behaviour and the impact on tax revenues.

We think the Scottish Government should uprate the band thresholds periodically to ensure they remain appropriate and are in line with policy objectives. This will help to prevent or minimise fiscal drag and ensure the LBTT is aligned as far as possible with the principle of the burden being proportionate to the ability to pay. In contrast, however, we think that, to maximise certainty for taxpayers, it would be best to minimise changes to rates.

When looking at how Revenue Scotland has performed in administering and collecting the tax, we note that LBTT is self-assessed. Therefore, it is also important to consider how easy it is for taxpayers and their agents to deal with LBTT returns, calculate the liability and make payments. We note that, for day-to-day conveyancing, LBTT is generally viewed as simpler to deal with than SDLT. We also acknowledge the way in which Revenue Scotland seeks engagement with stakeholders.

The submission contains some suggestions for improvements by Revenue Scotland, noting that it is important that the department has the resources to allow these, including a swifter turnaround for its opinions service and more dynamic guidance.

Read the CIOT response on the CIOT website.