Business rates avoidance and evasion

Property Tax



23 October 2023

The CIOT responded to the recent consultation on business rates avoidance and evasion.

The CIOT responded to the joint HM Treasury and Department of Levelling Up, Housing and Communities consultation on tackling business rates avoidance and evasion. Our response focuses on the proposals to reform empty property relief in order to address known avoidance schemes and the wider questions on countering other avoidance and evasion practices within the business rates system.

Our overarching comment was to note the lack of published data on existing mitigation schemes and tax leakage. Business rates are not included in the tax gap. Therefore we suggested that regular formal and robust evaluation of the business rates tax gap is required in the same way as HMRC estimates the tax gap for taxes they administer. Once that data is available, what measures may be needed can be considered in that context and evaluated accordingly through further consultation. A

wider consultation could also consider the efficacy of anti-avoidance measures introduced in Scotland and the proposals in Wales.

We observed that currently there are no penalties or interest imposed on failed business rates avoidance schemes and the general anti-abuse rule (GAAR) does not cover business rates abuse. However, there would be challenges in extending the GAAR to business rates because of the lack of supporting infrastructure around it. The interaction between the billing authorities and the Valuation Office Agency does not make it easy to have a dedicated team to challenge avoidance.

In terms of empty property relief, although there are good reasons for having a reset period, we agree that six weeks is too short. We suggest that the Welsh experience should help to inform any decision in England about the length of the reset period. Alignment of the reset period between England and Wales would offer the benefit of consistency for businesses operating in both countries.

There are further concerns about abusive arrangements for empty properties where the ratepayer is a charity or a community amateur sports club. In the case of genuine charities, the Charity Commission has issued guidance to trustees that they will be in breach of their duties if they enter into arrangements with owners of empty properties to avoid empty rates. We suggest that consideration might be given to re-issuing this guidance and considering ways for giving it greater prominence and publicity.

The full CIOT response can be found here: www.tax.org.uk/ref1176.

Kate Willis *kwillis@ciot.org.uk*