Scotland – update

Technical

01 March 2015

As the ‘go live’ date of 1 April 2015 approaches for the Scottish landfill tax (SLfT) and the land and buildings transaction tax (LBTT), activity related to the devolved taxes continues to increase. This brief report captures some of the highlights from the past few months and notes the contributions of the CIOT’s Scottish Technical Sub-committee and LITRG.

Revenue Scotland, the Revenue Scotland and Tax Powers Act 2014 and the Scottish tax tribunals

Revenue Scotland is responsible for the administration of Scotland’s devolved taxes. The board, appointed in December 2014, includes John Whiting, formerly Tax Policy Director of the CIOT. Revenue Scotland launched its own website in November 2014 featuring information about the taxes and tax calculators for the LBTT. It can be accessed at: www.revenue.scot

The three tax acts were passed in 2013 and 2014 (Land and Buildings Transaction Tax (Scotland) Act 2013 – LBTT(S)A 2013; Landfill Tax (Scotland) Act 2014 – LfT(S)A 2014; Revenue Scotland and tax Powers Act 2014 – RSTPA 2014), but subordinate legislation is still in the process of being published. The CIOT and LITRG have responded to consultations in recent months on secondary legislation for the RSTPA 2014 and on the Scottish tax tribunal rules. Both bodies agree with the Scottish government’s proposed approach in many areas. The CIOT raised a concern with the approach to the prevention of unjustified enrichment. In particular, it disagreed with the provision that a claimant should not be able to make any deduction from the amount reimbursed in respect of reasonable costs.

The Scottish tax tribunals are being established by RSTPA 2014 as an interim measure; the intention is that they should eventually be folded into the new Scottish tribunals system, which will be established under the Tribunals (Scotland) Act 2014. The Scottish government has, as far as possible, mirrored the UK tribunal rules.

LITRG raised a concern about the unbalanced expression of time limits within the draft rules. Both CIOT and LITRG expressed their preference for an expenses-free environment at First-tier level and an optional expenses regime at the upper level.

Charter of standards and values

Revenue Scotland started consulting informally on a charter in the latter half of 2014 with selected stakeholders, including the CIOT and LITRG. In late January, the tax authority launched a formal public consultation on a charter of standards and values, with the aim of publishing a final charter by 1 April 2015.

Land and buildings transaction tax and Scottish landfill tax

The proposed rates and bands for both taxes were announced in October 2014 as part of the draft Budget for 2015/16. In January 2015, however, as a result of the changes to SDLT announced by the UK government in the autumn statement, a revised proposal was put forward for LBTT on residential property transactions only. There were a few key changes: the 0% rate band was increased to £145,000; an additional band with a 5% rate was inserted from £250,000 to £325,000; and the 12% rate band threshold was lowered to £750,000.

Scottish rate of income tax

CIOT and LITRG have submitted comments to HMRC in respect of the technical note published in December 2014, Clarifying the Scope of the Scottish Rate of Income Tax. The organisations called on HMRC to put in place a mechanism to raise and solve issues quickly, ready for the introduction of the Scottish rate of income tax (SRIT) in April 2016. The technical note changes the proposed treatment of certain non-savings income in the hands of Scottish taxpayers, compared with that issued in May 2012. In essence, all non-savings income, including from real estate investment trusts, interest in possession trusts and deceased estates will be subject to the SRIT. Although this proposal is generally welcome, LITRG has suggested a franking system because of concerns that some low income taxpayers may be forced into self-assessment.

In terms of information provided to Scottish taxpayers, it has been decided that the details of the SRIT should be shown on the P60. The CIOT and LITRG have submitted arguments in favour of the information also being included on form P45.

Further devolution

The UK government published Scotland in the United Kingdom: An enduring settlement in January 2015 for consultation. This fulfils its undertaking to publish draft legislation to enact the Smith Commission Agreement. The draft clauses will form part of a Scotland Bill, which is likely to be introduced after the general election.

The flurry of activity and engagement with Revenue Scotland, the Scottish government and HMRC is unlikely to abate. As well as the above-mentioned publicly visible work, CIOT and LITRG representatives have provided informal feedback on draft guidance for the devolved taxes and attended demonstrations of online forms. Members who wish to become involved in the work of the Scottish Technical Sub-committee should visit www.tinyurl.com/3sygmej or email technical@ciot.org.uk