FA 2017: An 80% reduction from the longest Finance Bill on record

General Features

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Although the ‘wash up’ process resulted in the enactment of a Finance Act significantly shorter than the Finance Bill, rushing legislation through Parliament in this way is unsatisfactory. Also the process has led to a period of significant uncertainty in respect of rules which were intended to start on 1 or 6 April. The good news is that the move to holding a single fiscal event (Budget) in the autumn will lead to Finance Bills introduced in December and passed in the spring, which means hopefully this situation will not occur in the future.

The Finance Bill published in March received Royal Assent on 27 April and so became Finance Act 2017. The Bill had been significantly slimmed down due to the general election. Clauses dropped include those on Making Tax Digital (see later), non-domiciles, corporate loss relief and interest deductibility, VAT in relation to fulfilment houses and penalties for enablers of defeated tax avoidance schemes. A helpful what’s in and what’s out can be found on our website.

The CIOT welcomed the government’s decision to remove a majority of the Finance Bill following discussions with the Opposition. This was in line with a call by the CIOT in a letter to the Chancellor, copied to the Shadow Chancellor, the day after the general election was announced. In this letter the then CIOT President, Bill Dodwell, warned of the risks of rushing through a large number of tax changes without any real parliamentary scrutiny.

Our reasoning was not simply about the formality of parliamentary debate. Since the Finance Bill was published in March, the CIOT has identified a number of changes that we believe are needed to the legislation on many areas of complexity such as the new rules for non-doms, loss relief and interest deductibility. Delaying this legislation until the summer will hopefully allow time for our concerns to be

considered by the government. We also noted that we hope that the delay in legislating for Making Tax Digital will enable more of the framework for this huge project to be put in statute, rather than brought in through regulations, which are subject to less scrutiny and unamendable.

That said, we also recognise the uncertainty that has arisen as a result of these developments for taxpayers effected by the rules which were intended to have a start date of 1 or 6 April. The Institute has called for the government to make a clear statement about whether (if re-elected) all of the clauses dropped will be reintroduced on the original timetable. So far, we have only the statement by Jane Ellison MP, the Financial Secretary to the Treasury, made during the opening of the Finance Bill debate on 25 April 2017:

> *'The Bill is progressing on the basis of consensus and therefore, at the request of the Opposition, we are not proceeding with a number of clauses.* ***However, there has been no policy change. These provisions will make a significant contribution to the public finances, and the government will legislate for the remaining provisions at the earliest opportunity, at the start of the new Parliament****. The government remain committed to the digital future of the tax system, a principle widely accepted on both sides of the House. We recognise the need for the House to consider such measures properly, as called for by my right hon. Friend the Member for Chichester (Mr Tyrie) and his Treasury Committee. That is why we have decided to pursue those measures in a Finance Bill in the next Parliament, in the light of the pressures on time that currently apply.'*

So, if the present government remains in power, we can expect to see the dropped clauses reappear in a summer Finance Bill, however this does not alleviate the inevitable uncertainty in the interim period. It would be even more helpful if the government could clarify whether they intend the original timings to apply to all the clauses dropped or whether some will have their introduction delayed until a later point, but they have not done so at the time of writing.

The CIOT is hopeful that this will be the last time a Finance Bill is rushed through in the run up to an election. From this autumn the move to holding a single fiscal event (Budget) in the autumn should lead to a Finance Bill introduced in December and passed in the spring. Thus the act of calling an election in March or April (the usual practice) should hardly affect the passage of future Finance Bills, if at all.

This change to the Budget timetable will be a further improvement in the level of consultation and scrutiny on tax issues by the Government. Our recent report, with the Institute for Government and the Institute for Fiscal Studies, on Tax Policy Making included a range of recommendations in this area.

Notwithstanding the political activity in April, the work of CIOT, ATT and LITRG had started on the Finance Bill and continues. The CIOT and ATT had already submitted comments to HMRC on various clauses of the Finance Bill published in March before the general election was announced. Although these provisions were dropped as part of the ‘wash up’, we will follow up these points if, as expected, the draft legislation is re-introduced in a summer Finance Bill. A summary of the CIOT comments on errors in taxpayers’ documents (penalties for users of defeated avoidance) and requirement to correct certain offshore tax non-compliance is given in articles below and the ATT comments on the proposed new trading and property allowances can be found on the ATT website.

The CIOT, ATT and LITRG also prepared a number of Finance Bill briefings for MPs. In particular we commented on the various employment taxes provisions which remained in the shortened Finance Bill, and our comments on these provisions are also summarised in the article 'FA 2017 Employment Taxes Provisions: the ins and the outs'.