Finance (No.2) Bill 2017-19 goes through its committee stages

General Features

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The CIOT, ATT and LITRG submitted comments to the public bill committee to assist with the scrutiny of the Finance Bill

Finance (No.2) Bill 2017-19 completed its committee stage on 16 January after just six sittings. This is the Bill implementing tax changes announced in the November 2017 Budget – such as a new SDLT relief for first-time buyers and changes to VAT in relation to online marketplaces – as well as some previously announced measures – on disguised remuneration, partnerships and landfill tax, among other areas – which were published in draft in September.

This Bill is not to be confused with Finance (No.2) Act 2017, which was previously Finance Bill 2017-19 (before gaining Royal Assent in November 2017) which implemented measures dropped from the pre-election Finance Bill. However, just to add to the confusion, one of the largest measures in that Bill, corporate interest restriction, returned in the current Bill as the government sought to tidy up their work from first time round.

Committee stage amendments

There were four substantive sets of amendments made to the Bill by the government during committee stage. Explanatory notes on these are available on GOV.UK. In summary, they are:

- An amendment to Sch 5 placing restrictions on the amount of interest and other charges that venture capital trusts can impose in relation to qualifying loan investments
- Two amendments to Sch 8 (Corporate interest restriction) correcting the definition of a ‘non-consolidated subsidiary’
- 31 amendments to Sch 10 (Settlements: anti-avoidance etc) to clarify that the anti-avoidance provisions apply to both capital and income benefits, to ensure that they will not result in income tax charges on non UK resident beneficiaries and that no double charges arise
- A further three amendments to Sch 10 to ensure that the onward gift rules apply where appropriate, and preventing double taxation

Additionally, unusually the government accepted an amendment tabled by the Labour frontbench to correct a typo in clause 38 (Online marketplaces). Less surprisingly none of the other non-government amendments were successful.

Oral evidence

At the start of committee stage, SNP Treasury spokesperson Kirsty Blackman moved an amendment to the committee’s programme motion in order to enable oral evidence to be taken from a number of organisations including the Treasury, HMRC, the Office for Budget Responsibility, IFS and the CIOT. Blackman cited the

‘Better Budgets’ report published in January 2017 by the CIOT, IFS and Institute for Government, which suggested that oral evidence sessions at the start of Finance Bill committee stage should be considered as part of the public bill committee’s processes. However Financial Secretary to the Treasury (FST) Mel Stride said that while he understood why these amendments had been tabled the government would resist them as there were already substantial opportunities for scrutiny. Despite getting Labour support, the SNP amendment was defeated 10-9.

CIOT/ATT/LITRG input

As usual the CIOT, ATT and the CIOT’s Low Incomes Tax Reform Group (LITRG) provided MPs considering the Bill with briefing material to support their scrutiny work. Seven briefings were made as submissions to the public bill committee, while two further briefings, covering clauses debated in committee of the whole House, were sent directly to opposition frontbenchers. These briefings are available on our respective webpages.

Transfer of tax allowance after death of spouse or civil partner (clause 6)

The FST told MPs that this clause was developed in response to concerns raised by LITRG that had highlighted the unfairness of the current regime at a time of considerable stress for people who have lost a partner. The changes would put marriage allowance on a similar footing to other tax reliefs and allow ‘thousands’ of additional people to claim at ‘negligible’ cost to the Treasury. The clause was passed with all party support.

EIS, SEIS and VCT reliefs (clauses 14-17 and schedules 4-5)

Arguing for post-implementation reviews of the changes in this area, Peter Dowd (Labour) highlighted that the CIOT has argued that the success of a start-up and its ability to access money comes down to whether they can access advice.

Research and development (R&D) expenditure credit (clause 19)

During debate on this clause, Alison Thewliss (SNP) said the CIOT’s briefing pointed out that there may be merit in expanding R&D relief to product commercialisation, because we do lots of development in the UK but not necessarily all the commercialisation. She asked the minister to explore whether that might be possible. Responding, the FST said Thewliss made ‘an extremely important point’ and pointed her towards the patient capital review, saying that work would continue to address ‘precisely the concerns she expresses about companies as they go from small to mid-cap and further on in their lifecycle.’

In conclusion

The Bill currently stands at 192 pages, which means that, unless the government bulk it up big time at report stage, or introduce an unexpected further bill, 2018 will be the lightest year for finance act legislation since 1992 and before that 1983. However, tax law enthusiasts can get a further 170 page fix (plus, in due course, potentially hundreds of statutory instruments) from the Brexit-related Taxation (Cross-Border Trade) Bill, also currently wending its way through Parliament. And we are promised a National Insurance Contributions Bill (abolishing class 2 NICs among other things). And so, anyone expecting a quiet time on the tax law front probably needs to think again!