CIOT sends its analysis of the Autumn Budget 2018 to the Treasury Committee

General Features

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The Treasury Committee has opened its inquiry in the Budget, and the CIOT has scored various Budget announcements against the Treasury Committee's principles of tax policy. How well did it score? Read on to find out.

After each major fiscal event the House of Commons Treasury Committee opens an inquiry to determine the extent to which it meets the Committee's tax policy principles, as expressed in its 2011 report Principles of Tax Policy. Those principles are that tax policy should:

1. Be fair. The Committee accepts that not all commentators will agree on the detail of what constitutes a fair tax, but a tax system which is considered to be fundamentally unfair will ultimately fail to command consent.
2. Support growth and encourage competition.
3. Provide certainty. In virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs. Certainty about tax requires
    1. Legal clarity: Tax legislation should be based on statute and subject to proper democratic scrutiny by Parliament.
    2. Simplicity: The tax rules should aim to be simple, understandable and clear in their objectives.
    3. Targeting: It should be clear to taxpayers whether or not they are liable for particular types of charges to tax. When anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system.
4. Provide stability. Changes to the underlying rules should be kept to a minimum and policy shocks should both be avoided. There should be a justifiable economic and / or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
5. The Committee also considers that it is important that a person's tax liability should be easy to calculate and straightforward and cheap to collect. To this end, tax policy should be practicable.
6. The tax system as a whole must be coherent. New provisions should complement the existing tax system, not conflict with it.

We focused our submission on announcements which have the greatest fiscal impact, as well as those which particularly meet or contravene the Committee's principles. Our analysis comprised two elements. First, written commentary on the announcements within the scope of our submission. Second, a visual 'traffic lights' analysis, where green is a pass (it generally meets the principles), amber is a cautious approval (but with some reservations), and red is a fail (it generally fails to meet the principles).

Budget 2018 contains fewer tax changes than in most recent Budgets; perhaps a consequence of its timing and the status of our negotiations on leaving the EU. The Chancellor did not rule out upgrading the 2019 Spring Statement to a full fiscal event if necessary.

Disappointingly, there continue to be measures being announced as ‘done deals’, or for immediate implementation, with either no or inadequate consultation (for example, the changes to private residence relief and enterprise reliefs such as the Structures and Buildings Allowance (SBA)). Such announcements hence score poorly in terms of certainty and stability. Interestingly, this Budget then goes on to demonstrate the detrimental consequences such an approach can have, by appearing to correct, restrict or withdraw previous surprise announcements (for example, limiting Employment Allowance to those with an employer National Insurance contributions (NICs) bill below £100,000 in their previous tax year, or not pursuing the changes to Rent a Room relief which were included in the draft Finance Bill immediately following a call for evidence (a pre-consultation step)).

A number of measures compound the problems of inadequate consultation by having immediate effect. Whilst this is normally understandable when they are for the prevention of avoidance, the SBA is not such a measure, and the fact that it also has not been consulted upon may lead to confusion as to its scope and application. Whilst a technical note was published alongside the announcement, a number of elements are subject to consultation, meaning the precise scope of the allowance will be unclear for some time. Again, these measures score poorly.

The Budget also contains a lot of ‘tinkering’ – many of which have relatively modest financial impacts. We recognise that some tinkering is necessary to ensure that measures operate as intended; but we questioned whether so much tinkering would be necessary if there had been adequate consultation and a higher standard of legislative drafting in the first place?

Perhaps not surprising, there were many amber lights across the various announcements scored against the Committee’s principles. Those containing the most green lights included the shared occupancy test for rent-a-room relief (whilst something of a u-turn, a positive decision to do so), proposals to put voluntary tax returns on a statutory footing (formalising rights, safeguards and enquiry powers), and around Universal Credit. Red lights were prevalent around the capital allowances special rate reduction from 8% to 6% (as it has a hint of retroaction, and reduces the period of time over which tax relief is given), the Digital Services Tax (complexity, international competitiveness, longevity etc), and the penalties reform (or lack thereof, with the new penalty regime being deferred beyond 2020).

Our full submission can be viewed on the CIOT website.