Online sales tax

Indirect Tax

21 June 2022

The CIOT, ATT and LITRG each responded to HM Treasury’s call for evidence ‘Online sales tax: Assessing an option to help rebalance taxation of the retail sector’.

Although no decision has been made on whether an online sales tax will be introduced, should the proposal be taken forward, the tax receipts generated by the tax would be used to fund relief to eligible retailers to relieve their business rates burden. High street retailers typically incur higher business rates on town centre retail properties. This is perceived to create a competitive disadvantage compared to online retailers, who are able to operate from lower value out of town commercial properties that have lower rateable values. This is because business rates are calculated based on the size, value and usage of the property occupied by the business.

In both the CIOT and the ATT’s responses, the key point was that neither organisation supported a new tax being introduced solely to provide a funding solution to remedy issues of perceived unfairness in another tax, in this case business rates. However, both organisations also commented on the other questions and issues raised in the call for evidence (tinyurl.com/57m2x2yx) about design, scope and impact technical questions. These responses highlighted the potential complications that could arise if an online sales tax (OST) was introduced.

LITRG’s key focus is to ensure that low-income businesses are not affected by an OST. It said that if an OST is to be introduced, this could be achieved by having a high OST registration threshold or an allowance of some form.

The CIOT’s response

In May, the CIOT held a joint event with the Institute for Fiscal Studies on OST, allowing a debate between panellists with a variety of views that were both for and against the OST, as well as the opportunity for attendees to ask questions. The

CIOT's blog summarising the event and a link of the recording can be found at www.tax.org.uk/shopping_basket_ost. CIOT representatives also attended a meeting with the OST policy team at HM Treasury to talk through the OST proposals from a policy perspective.

The CIOT's response to the call for evidence (www.tax.org.uk/ref932) leads with our principal view that an OST should not be introduced to fund relief to retailers in respect of business rates. If change is needed to business rates, the CIOT's view is that it would be preferable to make changes to the existing business rates system itself. The introduction of a new tax seems a disproportionate way of solving or funding the perceived issue. Alternatively, the CIOT said that we can see a case for adjustments to an existing tax to provide funding, subject to appropriate consultation. Thus discreet changes to the VAT system are considered in the CIOT's response as an alternative to a new OST, though it is acknowledged that this too comes with complexities.

HMT's call for evidence raises the concern that a decrease in business rates for eligible high value retail properties may be simply offset by an increase in the landlord's rent. We agree with this concern and note that it calls into question the whole premise of introducing OST on online sales to rebalance the tax burden on the business away from physical premises. The CIOT's response considers that an OST may instead result in the introduction of new burdens and distortions on businesses and their consumers, to the benefit of landlords, and asks whether this is intended. Our response says that the government should clarify where it intends the burden of the new tax to fall, and why. Without further clarity of the policy intentions, it is difficult to provide well-directed responses to the many complexities highlighted in the call for evidence document.

The outcome of the earlier business rates review (tinyurl.com/5yaeafsp) states that issues around avoidance of business rates will be reviewed in the future, with particular concerns around the misuse of empty property relief. It is not known whether the anticipated business rates revenues lost to avoidance and evasion are similar to the projected income from an OST. If they are, the CIOT questions whether additional revenues arising from targeting such avoidance and evasion would be a better source of funds for retailer reliefs than a brand new, unrelated tax.

As well as the technical questions around the scope and design of an OST for businesses, the call for evidence asked questions around environmental issues. The

CIOT’s response noted that the OST policy document does not include aims to either change customer behaviour to shop in a less polluting way or to impact businesses’ net zero strategies. Businesses likely in scope of an OST will also be dealing with the recently introduced plastic packaging tax and face the new environmental consumer charge the ‘deposit return scheme’ on some product packaging, to be introduced in Scotland in August 2023 and anticipated for the rest of the UK sometime in 2025.

The ATT’s response

In its response (www.att.org.uk/ref395), the ATT similarly says that it does not consider the introduction of an OST to be the best way to achieve fairness for the business rates retailer position. Its view is that trying to reduce an existing tax by introducing an entirely new, potentially highly complex tax is not appropriate. It would be an overly complex solution to an issue which is a reflection of changes in customer preferences and technological development over time.

The ATT highlights that the design of any OST would be complex due to issues with scope and boundary definitions, which may increase over time as technology and retail models evolve, so OST would also not be ‘a simple tax’ (as was optimistically said about VAT on its introduction in 1973). Also, the ATT said that an OST would not achieve the principles set out in the call for evidence document that tax policy should be ‘applied fairly, reflecting the ability to pay; simple, with costs of compliance and collection kept to a minimum; and predictable, allowing businesses and individuals to plan for the future in a stable policy environment.’

As well as complications for businesses highlighted throughout the responses to the technical questions in the consultation document, the ATT raised concerns about the distributional impact on consumers, particularly consumers with disabilities, those who find it harder or impossible to shop in store, and people living in remoter areas, with the impact felt most severely by those individuals who are on fixed or low incomes.

LITRG’s response

LITRG’s response (www.litrg.org.uk/ref2635) highlighted that many small businesses will struggle to deal with any further changes on top of a difficult economic environment, the recent introduction of Making Tax Digital for VAT and, for some, the forthcoming Making Tax Digital for Income Tax. Therefore, if an OST is introduced, LITRG strongly agree with the suggestion of having a revenue threshold/allowance of £1million to £2 million before a business is required to implement any form of OST. If an amount substantially lower than this is being considered, then LITRG consider that an allowance may be preferable to a threshold. This would be more helpful to businesses which may have reasonably high turnover at levels at or around the threshold but earn low profits.

Next steps

HM Treasury will publish the results of the consultation exercise later this year. It is not yet known whether it will be confirmed at that stage if the OST will be taken forward or not.

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