Representation from the Chartered Institute of Taxation
for Finance Bill 2021-22 Public Bill Committee

Residential Property Developer Tax
Part 2 (clauses 32-52)

Executive Summary

A wholly new tax, Residential Property Developer Tax (RPDT), will be charged on the profits that large companies and corporate groups derive from UK residential property development.

The consultation process, although curtailed, has been constructive. In particular we are pleased the government has listened to our call for aligning the new tax with Corporation Tax mechanisms and using existing statutory tax definitions as far as possible.

However concerns remain, principally:

- **Short timescale: will HMRC systems, guidance and industry software be ready in time?**
- **Getting rid of the tax: RPDT is time limited but its closure depends on active repeal. There is a case for a legislative 'sunset' clause or mandatory re-authorisation.**
- **Build-to-rent: uncertainty on whether build-to-rent profits will be brought into RPDT scope in the future.**
- **Pre-commencement profits: companies with accounting periods that straddle the 1 April 2022 commencement date for the tax may pay RPDT on profits earned before that date.**

1 Overview

1.1 Residential Property Developer Tax (RPDT) was first announced on 10 February 2021 as part of the government's five-point plan to pay for the removal of unsafe cladding. HM Treasury's consultation on design and implementation was published on 29 April 2021.

1.2 The consultation presented RPDT as a time-limited tax to raise £2bn over a decade (£200m per annum). The government states that the focus is on the largest property developers, not to imply responsibility for cladding defects, but because they operate in a market that has benefited from government funding to address building defects and from interventions in the housing market, including the Stamp Duty Land Tax covid reductions and the mortgage guarantee scheme.

1.3 RPDT will be charged on adjusted Corporation Tax profits from residential property development activities at a rate of 4% and after an annual allowance of £25m. Adjustments to profit are required to exclude pre-2022 losses, group relief from out of scope companies and all interest costs. Profits from build to rent developments and affordable housing provided by social housing providers are out of scope although in the case of build to rent the government intends to keep the decision to exclude from scope under review.

1.4 RPDT will apply to accounting periods beginning on or after 1 April 2022 . For accounting periods that straddle the 1 April 2022 date, pre and post commencement profits are apportioned on a time apportionment basis.

2 CIOT comments

2.1 Although we recognise the government's desire to introduce this tax quickly to tackle the serious problem of unsafe cladding, it is disappointing that stage one of the consultation process was omitted. Stage one (*Setting out objectives and identifying options*) consultations allow for transparent consultative evaluation of different options to achieve the government's policy intents in the way that best balances competing objectives - such as raising revenue while minimising adverse effects on the wider government objective of increasing housing supply.

2.2 However HMRC/HMT have consulted genuinely and constructively with the CIOT and other stakeholders in the truncated consultation process. In particular we are pleased the government has listened to our call for aligning the new tax with Corporation Tax mechanisms and using existing statutory tax definitions as far as possible.

2.3 We remain concerned that the timescale for developing and implementing an entirely new tax is very short, for both the sector to adjust and for HMRC to get its systems and guidance ready in time (although the alignment with Corporation Tax administration helps). Anecdotally we have heard third party software providers may not be supporting RPDT or at least not immediately.

2.4 Question for the government:
Is the Government confident that HMRC systems will be ready and industry software will be in place in time for the commencement of the tax in April 2022?

2.5 RPDT is supposed to be time limited but its closure depends on active repeal. We suggest there is a case for considering a legislative 'sunset' clause or mandatory re-authorisation in respect of RPDT given the short timetable for design and implementation and its stated nature as a temporary tax. The optimal design of a time-limited tax to raise a specified amount may differ from the design of a tax that evolves into a longer term feature of the tax system by default.

2.6 We welcome the commitment to publish RPDT revenue annually.

2.7 There remains some uncertainty in relation to bringing build to rent profits into the scope of RPDT at a future date. Uncertainty makes planning difficult for the sector.

2.8 Question for the government:
What factors would lead the government to consider bringing build to rent profits into the scope of the tax? It would be helpful to understand whether this is effectively to stop companies

switching from build to sell to build to rent to mitigate RPDT or whether a change will be considered if the build to rent market increases.

2.9 Clause 51, subclauses 2 and 3, require pre-and post-commencement profits to be time apportioned where a company's accounting period straddles the commencement date of 1 April 2022. For a company with a 31 December 2022 year end that sells a development pre-commencement in, say, January 2022, part of the profits will be brought into the charge, whereas the same profits for a company with a 31 March 2022 year end will fall out of scope. We think there should be an option for an alternative basis of apportionment of profits between pre and post commencement periods where a strict time apportionment would capture pre-commencement profits.

2.10 Finally, we have pointed to the importance of HMRC's guidance being in place for commencement particularly given RPDT will be within the Notification of Uncertain Tax Treatment requirements.

3 The Chartered Institute of Taxation

3.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

The CIOT's 19,000 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

For further information, please contact:
George Crozier, CIOT Head of External Relations
gcrozier@tax.org.uk 020 7340 0569

The Chartered Institute of Taxation
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