

**MINISTERIAL ENGAGEMENT BRIEFING: MINISTER FOR PUBLIC FINANCE AND DIGITAL ECONOMY**

<b>Engagement title</b>	Meeting with Scottish Taxes Policy Forum
<b>Engagement timings</b>	31 January at 9:15am
<b>Meeting Attendees</b>	<ul style="list-style-type: none"> <li>• Jim Robertson, Chair of the Scottish Taxes Policy Forum</li> <li>• Charlotte Barbour, Director of Tax, Institute of Chartered Accountants of Scotland (ICAS)</li> <li>• Alexander Garden, Chair of the Chartered Institute of Taxation (CIOT) Scottish Technical Committee</li> <li>• Joanne Walker, CIOT Low Income Tax Reform Group</li> <li>• Chris Young, CIOT External Relations &amp; Branch Support</li> </ul>
<b>Venue and full address</b>	4W.01 - SAH
<b>Background/Purpose</b> (including invitation history)	Meeting with the Scottish Taxes Policy Forum to discuss their report into the devolution of taxes in Scotland, and encourage a collaborative approach addressing their recommendations.
<b>Twitter handles of main representatives and organisations</b>	@CIOTNews @ICASaccounting
<b>Briefing</b>	Annex A: Meeting purpose and Agenda Annex B: Speaking points Annex C: Attendees Annex D: Overview of report Annex E: Additional Briefing (public engagement, Scottish income tax and devolved taxes) Annex F: PQ's from Bill Bowman MSP Annex G: ICAS Article: "Does Scotland need a Finance Bill 'lite'?"
<b>Official support:</b>	[Redacted] [Redacted] [Redacted]

## **ANNEX A: MEETING PURPOSE AND AGENDA**

You have agreed to meet with representatives of the Scottish Taxes Policy Forum to discuss their report *Devolving Taxes across the UK: Learning from the Scottish Experience*.

No formal agenda has been set for the meeting, but STPF has highlighted they would like to discuss:

### **Public awareness of tax**

- Do the findings of STPF's poll chime with the Minister's understanding of how the public views the devolved taxes?
- What are the government's objectives for the devolved tax system in the short/medium to long term?
- How can the bodies represented by the Scottish Taxes Policy Forum (ICAS and CIOT) support the government's efforts to promote understanding and awareness?

### **Parliamentary processes**

- Attendees would find it helpful to get an understanding of the Minister's approach to the upcoming consultation on devolved taxes legislation.
- How can CIOT and ICAS support the development of tax & social security legislation at the government and/or parliamentary levels.

## **ANNEX B: SPEAKING POINTS**

### **1. PUBLIC AWARENESS OF TAX**

STPF is keen to discuss ways in which they can facilitate discussions and improve awareness, both in government and at the level of the general public; for example they already provide material on CIOT's Low Income Tax Reform Group webpages.

#### Key Lines to Take

- Keen to work with Scottish Taxes Policy Forum on improving engagement with Scottish public on tax system and wider public finance – and going beyond digital engagement.
- Suggest that work continues with officials to look at areas of co-operation / joint working, with focus on reaching any groups that are a priority or hard to reach with traditional engagement, and the best routes for this engagement.
- We have now allocated additional resource to this. A new Coordination and Capability Unit has been established within our Tax Directorate, and as part of that we have appointed a team leader for tax capability and engagement who will take up post shortly. So, I am confident that we will start making progress.
- It is important to remember that tax is part of a broader picture, and there are some good examples (such as publishing Scotland's Finances and our engagement around the Scottish Budget) that we can build on, as well as looking at new ideas.
- There are also opportunities through the Open Government Partnership, where fiscal transparency is a key priority. Just this week Scottish Government officials met with the Global Initiative for Fiscal Transparency (GIFT), to discuss international best practice and innovative ideas for increasing public awareness.

#### Questions to ask

- Transparency in tax powers and the operation of tax policy is very important to the Scottish Government. We have made significant efforts to provide as much clarity as possible. Whilst we are dedicating resource to this, there will be limitations. You suggest a number of areas for improvement - it would be good to get your views as to which actions you would prioritise and why?
- The current constitutional settlement means that devolved income tax and the fully devolved taxes operate within different parameters. It is important that any communications the SG undertakes improves transparency and aids taxpayer understanding – when thinking of income tax, what do you feel is the right balance between the respective roles of HMRC and the SG when it comes to communications?
- We would not take anything for granted, but are you aware of any evidence that the understanding of taxes in Scotland is worse than in rUK?

- How can we best shape work in this area to ensure that it is focussed on positive actions and improvements?
- What could professional bodies do both directly and through their members to encourage wider understanding of taxes?
- Do ICAS/CIOT or their members undertake any outreach into schools or other educational institutions to support financial education and aid understanding of tax?

## **2. PARLIAMENTARY PROCESS**

### Key Lines to Take

- As set out in the PfG, SG is committed to putting in place a new approach to the planning management and implementation of the fully devolved taxes.
- Want to do this in an open and collaborative manner. Encourage participation in a consultation to be launched next month on a, including raising awareness amongst their members.
- Encourage continued dialogue and collaboration with officials on the development of specific proposals following the consultation.

### Questions to ask

- Would welcome any initial reactions from STPF on the plans set out in the PfG and Budget.
- As part of this work we are considering international best practice. Are there examples of tax policy making from other countries that the STPF think it would be helpful for us to look at?

## **ANNEX C: ATTENDEES**

The Scottish Taxes Policy Forum (STPF) was formed in 2017 by the Institute of Chartered Accountants of Scotland (ICAS) and the Chartered Institute of Taxation (CIOT) to collaborate on technical analysis of Scottish tax matters.

### **Jim Robertson**

Jim Robertson was global head of oil & gas tax in Shell for 11 years. He is now a Senior Fellow of International Tax and Investment Center, a non-profit research & education foundation based in Washington DC.

In the UK, Jim chairs the Scottish Tax Policy Forum and is also a member of the ICAS Scottish Taxes Committee and the ICAS Governing Council.



### **Charlotte Barbour**

Charlotte is Director of Taxation for ICAS. She has extensive experience in dealing with tax issues and has represented ICAS at both the Scottish Parliament and the House of Lords. She is the author of *The Management of Taxes in Scotland* (Bloomsbury). Charlotte is also an Ordinary (non-legal) member of the First Tier Tax Tribunal in Scotland.

Scottish Government officials have regular quarterly meetings with representatives of ICAS, CIOT and Association of Tax (ATT) Technicians. The group last met on 16 January 2019.



### **Alexander Garden**

Alexander Garden is a Partner and Head of Turcan Connell's Tax and Succession department. He specialises in tax & estate planning for private clients, and charity law.

Alexander is Chair of CIOT's Scottish Hub Committee and as a Member of the Law Society of Scotland's Tax Committee.



### **Joanne Walker**

Joanne is a Technical Officer for the Low Income Tax Reform Group (LITRG). The group is an initiative of the CIOT, which seeks to "*...persuade politicians and HM Revenue & Customs to make the tax system easier and fairer for all while making tax and tax credit information available to those who are unable to afford professional advice*".

Joanne prepares submissions on Government consultations and has developed and delivered materials for the LITRG Tax Guide for Migrants project. She attends the quarterly CIOT/ICAS/ATT meeting with officials.



### **Chris Young**

Chris is the External Relations & Branch Support Officer for CIOT and the Association of Tax Technicians in Scotland.

Chris is the main point of contact between officials and CIOT. He regularly attends the quarterly CIOT/ICAS/ATT meetings with officials.



## **ANNEX D: OVERVIEW OF REPORT**

The paper - the first produced by the STPF - discusses the progress of tax devolution and considers how well it is working for Scotland and for the rest of the UK. Its stated aim is to *“initiate a debate amongst tax practitioners, academics and government with the eventual objective of this debate filtering through to the general public, to promote greater awareness and wider discussion”*.

The STPF's report covers a range of topics, including: the interaction between Scottish Income Tax and UK Income Tax reliefs; identification of taxpayers, interaction of income tax and NIC, tax cohesion, current devolved tax processes and the potential for new taxes.

In addition to identifying points for discussion, the report sets out a series of recommendations. These can be summarised as calling for:

### **Across the UK tax system**

- A “more logical and consistent” strategic framework for the devolution of tax powers across the UK.
- Further consideration of the UK Income Tax framework and how the process of devolution of the rates and bands dovetails into it.
- More effective and transparent collaboration between each of the devolved Governments and the UK Government around negotiations on taxation policy.
- Development of better data than is currently available on Scottish taxpayers and the movements between jurisdictions.
- A “more realistic” time frame between the UK and Scottish Budgets to allow more time for the Scottish Government to react.

### **Across the Scottish tax system**

- More openness around strategic thinking – for example, setting out a five-year framework or process map for Scottish taxes.
- Introduction of a new Tax Committee in the Scottish Parliament, to sit separately to the Finance and Constitution Committee.
- Introduction of an annual care and maintenance provision in the Scottish legislative cycle such as a Finance Act.
- More policy collaboration between Revenue Scotland and the Scottish Government.

In addition to the paper the STPF commissioned a survey of Scottish taxpayers on their understanding of Scottish taxes

The poll results<sup>1</sup> included:

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<sup>1</sup> It is important to note that the survey did not include a control question around the extent of taxpayers understanding of tax generally. So the poll does not reflect the extent to which this is a broader UK tax issues

- 84% think that they need better information about how taxes are decided in Scotland;
- 60% surveyed believe that the relationship between UK and Scottish taxes is difficult to understand;
- 52% said that they had little or no understanding of the definition of a Scottish taxpayer;
- 66% were unaware that income tax was the responsibility of both Westminster and Holyrood, with 57% unaware that LBTT is devolved to Scotland; and
- 39% believe that the amount of income tax they pay has gone up in recent years, with just 11% earning less than £30,000 per year believing that they have paid less in income tax in recent years.

A CIOT evidence paper which accompanied the survey also commented that:

- The varied approaches adopted in relation to Scottish taxes also mean that the devolution of taxes to Scotland has already shown itself to be a complicated affair
- Income Tax for Scottish taxpayers is more progressive than that for UK taxpayers, but more complex.
- Income Tax for the majority of taxpayers is collected by HMRC by way of PAYE, a system designed to collect tax efficiently. The administration process may be efficient but does not lend itself to engagement with taxpayers on how Scottish taxes operate.

We are aware that the STPF have been engaging with opposition parties on the report. This resulted in four PQ's from Bill Bowman MSP on 29 November 2018 (see Annex F).

## ANNEX E: BRIEFING ON DISCUSSION TOPICS

### 1. PUBLIC AWARENESS OF TAX

#### Key Lines

- **Keen to work with Scottish Taxes Policy Forum on improving engagement with Scottish public on tax system and wider public finance – and going beyond digital engagement.**

#### Background

- SG recognise the importance of the valuable analysis and scrutiny CIOT and ICAS provide of the tax system across the UK and welcome the ongoing engagement officials have with them around this.
- The poll highlighted a perceived lack of understanding of tax devolution / consequences of devolved tax, but fails to compare to this previous understanding of UK taxes, i.e. do people not understand tax devolution or do they just continue to not really understand taxation and devolution hasn't this changed.
- In any event, raising public understanding of tax is not something that can be addressed by government alone and SG would welcome the opportunity to work with the STPF to identify areas of priority and explore any joint initiatives which could be used to address them.
- SG are keen to understand what further engagement is planned around this report, and any planned future work for the STPF more generally.

## 2. SCOTTISH INCOME TAX

### Key Lines

- We are working with HMRC on improving communications to Scottish taxpayers, including the Annual Tax Summary, and would welcome views on improvements to existing communications and potential new engagement opportunities
- We published “The Role of Income Tax in Scotland’s Budget” – a discussion paper to help inform and engage with stakeholders ahead of changes to Scottish income tax for 2018-19. This was widely welcomed by stakeholders and commentators, and we believe this underpins our commitment to engagement with stakeholders as part of the Scottish Approach to Tax.
- Keen to build on engagement with tax and accountancy professionals on Scottish Income Tax operation and policy.

### Background On Public Engagement

The collection and management of Scottish Income Tax is the responsibility of HMRC and correspondence on an individual’s income tax is handled through HMRC.

#### Annual Tax Summary:

- HMRC is committed to working with us, and Welsh colleagues to develop improvements to this communication for the next ATS

HMRC distributes an Annual Tax Summary to UK income tax payers – with the aim of providing a clear and simple summary of how much income tax and national insurance each individual paid in the last financial year and providing an illustration of how an individual’s payments of income taxes and national insurance contributions were used by the government in its spending. Despite representations from SG Ministers, the UK Government decided to leave the illustration of ‘how your tax was spent’ unchanged. The table sets out how an individual’s tax contributions were apportioned across total UK government and devolved countries spending. It therefore makes a link between Scottish income tax that an individual has paid and how that contributes to a range of total UK cost headings, including several that are entirely reserved, for example defence, UK contribution to the EU budget. This decision will lead to the misrepresentation of Scottish Income Tax powers.

#### Engagement – pre-Budget roundtable with tax stakeholders:

- Mr Mackay met with tax stakeholders in November 2018, including Charlotte Barbour and Joanne Walker, on the implementation and operation of Scottish income tax.

Key themes discussed at the roundtable were: the need for ongoing communications on the Scottish approach to tax, interactions with HMRC’s operation of Scottish income tax, and potential behaviour responses to tax policy.

## **Background on other potential areas of interest**

### Identification of Scottish Taxpayers:

- HMRC has undertaken an exercise comparing its data to that of third parties to check Scottish taxpayer addresses with third party data, this has led to HMRC reporting 98-99% confidence in accurately identifying Scottish taxpayers.
- For 2016/17, HMRC have identified 2,528,400 Scottish income taxpayers, which falls within the range of 2.5m to 2.6m anticipated by the SG and HMRC.
- HMRC considers the likelihood of customers changing behaviour in response to the change in Scottish rates and thresholds to be very low.
- National Audit Office reported “we are satisfied that HMRC has adequate rules and procedures to ensure the proper assessment and collection of Scottish income tax”

### Pensions relief:

- HMRC is finalising the IT systems for pensions relief, with the system currently up and running.

### Self-Assessment:

- Officials are working with HMRC to understand, and rectify, the issue highlighted by professional bodies on a small number of Scottish self-assessment forms being returned to Scottish taxpayers changing them to rUK taxpayers.

### Income Tax Allowances and Reliefs:

- Pensions Relief At Source and Gift Aid relief is available to Scottish tax payers at Scottish income tax marginal rates
- For charities there will be no change to Gift Aid
- Marriage Allowance is available to all eligible Scottish taxpayers who pay tax at the starter, basic and intermediate rates. Scottish higher rate taxpayers will continue to be excluded from claiming Marriage Allowance even if they earn less than the UK higher rate threshold. This means that Scottish taxpayers who earn between £43,430 and £45,000 in 2018/19 will be worse off than those earning an equivalent sum elsewhere in the UK.

### 3. PROCESS FOR DEVOLVED TAXES LEGISLATION

#### Key Lines

- As set out in the PfG, SG is committed to putting in place a new approach to the planning management and implementation of the fully devolved taxes. Would welcome any initial reactions from STPF on what has been set out.
- Want to do this in an open and collaborative manner. Encourage participation in a consultation to be launched next month on a, including raising awareness amongst their members.
- Encourage continued dialogue and collaboration with officials on the development of specific proposals following the consultation.

#### Summary

- The fully devolved taxes have been operational in Scotland for almost four years. Like all taxes, regular consideration must be given to potential changes, as well as to general care and maintenance.
- A number of changes have been made to LBTT since its introduction in 2015. Changes have been brought forward on an ad-hoc basis and implemented at different points in the financial year; some have been made using primary legislation and others using secondary legislation.
- It is expected that further issues in relation to the devolved taxes will emerge (some have already been identified) requiring further changes to the legislation, and there is general consensus from stakeholders that it would be more effective for such changes to be made using a single, perhaps annual bill, as opposed to individual acts or orders to deal with these issues (see Annex G).

#### Background

- A wide range of stakeholders have called for changes to be made to the Scottish Government's approach to bringing forward changes to the devolved tax legislation and suggested an annual approach along the lines of that used by the UK (Finance Bill) be adopted. Stakeholders are keen in particular for there to be a clearer/more structured cycle of events in place and greater certainty about the timing of and process for changes.
- The 2018-19 PfG set out a commitment to developing a new approach to the planning, management and implementation of changes to the devolved taxes. This followed two recommendations from the Budget Process Review Group:
  - **Recommendation 50:** The Group recommends that further work is undertaken by the Finance and Constitution Committee in consultation with the Scottish Government, Revenue Scotland and others to explore options for alternative legislative processes for devolved taxes legislation, particularly where tax measures need to be introduced quickly or where minor amendments are needed to existing primary legislation.

- **Recommendation 51:** The Group recommends that the Scottish Government in consultation with the Finance and Constitution Committee examines the need for a Finance Bill and brings forward any recommendations by the end of the current Parliament.
- A consultation will be launched in February 2019 to seek views on the full end-to-end process for making devolved tax policy. It will set out proposals for:
  - a policy framework and cycle through which changes to devolved taxes will be proposed, consulted on and assessed; and
  - a legislative process that ensures an efficient use of Parliamentary time but which is agile enough to respond quickly to timing issues between the UK and Scottish Budget.
- The aim of this work is to bring greater certainty, transparency and efficiency to the process for making devolved tax policy. In particular, it will ensure that:
  - the Scottish Government's priorities in relation to tax are clear;
  - there is early and continuous consultation throughout the policy cycle;
  - stakeholders are encouraged to participate in the formulation of tax policy and given clarity around when and how they can make representations;
  - taxpayers and practitioners are clear as to when tax changes will be introduced; and
  - legislation is reviewed post-implementation.
- SG welcomes the engagement CIOT/ICAS have had with officials on this consultation and would welcome continued engagement on the development of specific proposals following the consultation.
- In developing initial proposals, SG has also worked closely with the Scottish Parliament, Revenue Scotland and other stakeholders to ensure that the proposals are fit for purpose and are founded on good examples of policy development both domestically and internationally.
- SG will chair a working group with officials from the Scottish Parliament to inform the development of any new legislative procedures. As part of this, the group will also consider how any new legislative process will be scrutinised by the Finance Committee and Parliament.
- SG will continue to build on existing good working relationships with Revenue Scotland, the UK and Welsh Government on the development of devolved tax policy.
- In particular, officials will continue their regular engagement Revenue Scotland on specific proposals to ensure that they are deliverable and take full account of Revenue Scotland's operational expertise. An example of this collaboration was noted by Revenue Scotland in their response to the Finance Committee's call for evidence on the recent LBTT Rates and Bands Order.



## ANNEX F: PQ's from Bill Bowman MSP – 29 November 2018

1. **Bill Bowman (North East Scotland) (Scottish Conservative and Unionist Party):** To ask the Scottish Government what its response is to the recommendations of the Institute of Chartered Accountants of Scotland and Chartered Institute of Taxation publication, Devolving Taxes across the UK: Learning from the Scottish Experience.

**Kate Forbes:** The Scottish Government welcomes the report on Devolving Taxes across the UK: Learning from the Scottish Experience from the Scottish Taxes Policy Forum. The Scottish Government is considering the recommendations made in the report and looks forward to engaging further with the Institute of Chartered Accountants of Scotland and the Chartered Institute of Taxation on their findings.

[S5W – 19988]

2. **Bill Bowman (North East Scotland) (Scottish Conservative and Unionist Party):** To ask the Scottish Government what steps it is taking to improve public awareness and understanding of devolved taxes, in light of the poll commissioned by the Chartered Institute of Taxation, which found that 84% of people in Scotland strongly agreed or tended to agree that they need better information about how taxes are decided in Scotland.

**Kate Forbes:** The Scottish Government is committed to a collaborative and open approach to tax policy development, characterised by regular consultation with taxpayers, industry representatives and professional bodies, to ensure that tax policy is better understood and informed by a diverse range of views. For example, in advance of income tax changes earlier this year the Scottish Government took the unprecedented action of publishing a discussion paper on the future of income tax.

However, raising public understanding of tax is not something that can be addressed by government alone and the Scottish Government would welcome any further suggestions from Institute of Chartered Accountants of Scotland, the Chartered Institute of Taxation, and other organisations on wider initiatives that could help support this

[S5W – 19989]

3. **Bill Bowman (North East Scotland) (Scottish Conservative and Unionist Party):** To ask the Scottish Government what progress has been made in developing “a new approach to the planning, management and implementation of changes to devolved taxes with the aim of bringing greater certainty, transparency and efficiency”, as set out on page 61 of its Programme for Government.

**Kate Forbes:** The Scottish Government is in the process of exploring a range of options for a new process for the devolved taxes. In developing this new approach the Scottish Government is committed to working closely the Scottish Parliament,

Revenue Scotland and consulting widely with a range of stakeholders. Further details on the next steps around this work will be provided in due course.

[S5W – 19990]

4. **Bill Bowman (North East Scotland) (Scottish Conservative and Unionist Party):** To ask the Scottish Government whether it supports the introduction of an annual Scottish Finance Bill as a means of identifying and addressing changes to devolved tax legislation, as recommended in the Institute of Chartered Accountants of Scotland and Chartered Institute of Taxation publication, *Devolving Taxes across the UK: Learning from the Scottish Experience*.

**Kate Forbes:** As part of the Scottish Government's commitment in the Programme for Government to develop a new approach to the planning, management and implementation of changes to the devolved taxes we are also considering legislative options. This builds on recommendation made by the Budget Process Review Group to examine the need for a Finance Bill by the end of current Parliament.

[S5W – 19991]

## ANNEX G: ICAS Article

### ARTICLE: Tax Journal: Does Scotland need a Finance Bill 'lite'?

2 May 2018

Author: Justine Riccomini (ICAS)

The devolution process of Scotland's two fully devolved taxes – the land and buildings transaction tax (LBTT) and the Scottish landfill tax (SLfT) – has successfully delivered revenue directly to Scotland from transactions in Scotland. However, since taking effect on 1 April 2015, some anomalies have come out of the woodwork with the legislation not operating as originally intended particularly in relation to LBTT (such as with group relief provisions). And over the course of three years, there has already been a new charge – the additional dwelling supplement (ADS) – and now a new relief for first-time buyers is proposed.

With change, the question of process arises: how are legislative changes made?

Both the Land and Buildings Transaction Tax (Scotland) Act 2013 and the Landfill Tax (Scotland) Act 2014 are standalone acts. They are complemented by the Revenue Scotland and Tax Powers Act 2014 which provides the management framework. But, to date, the Scottish budget process has been expenditure focused and so possible amendments to tax law are raised on an ad hoc basis.

Politicians may wish to review tax rates and thresholds across the devolved taxes beyond simply inflationary measures. There is already a process for implementing rate changes to LBTT and SLfT; however, there is no regular timing mechanism attached to this. RSTPA 2014 s 108 ties in with LBTT(S)A 2013 s 68 and LfT(S)A 2014 s 41 and the latter two sections provide for rates to be introduced by statutory instrument using a provisional affirmative procedure, so that new rates can be implemented straight away. Section 108 allows for repayment if the statutory instrument is not adopted. This covers rates and bands or, say, definitions in landfill but it does not cover whole new parts of a tax such as the LBTT additional dwelling supplement.

When new charges, or reliefs, are put forward these can be by way of a standalone act as happened when additional dwelling supplement was introduced to LBTT, or it can be by Scottish statutory instrument. There are significant regulation making powers in each of the three main taxing acts, but it is questionable whether extensive use of secondary legislation instead of primary legislation is an appropriate way to exercise tax powers.

**Budget process:** In September 2017, ICAS commented that whilst the Budget Process Review Group had examined the budget processes in terms of spending, the new concept of revenue raising due to devolution now needed equal weighting. Formalising a regular timetable and a process by which stakeholders can raise operational and policy concerns with the tax legislation would be preferable to the ad hoc remedies which are currently available.

**Care and maintenance:** A process is therefore needed in which to address such matters. Whilst a full Finance Bill process may be rather heavy-handed,

appropriately weighted 'care and maintenance' measures would afford stakeholders and advisers, together with Revenue Scotland and the Scottish government, to revisit the law if they find that parts of the legislation do not work as intended or provide a commercially unstable outcome and to introduce tax policy changes.

**Conclusion:** A process is required, although the jury is out about the regularity of the process. On the one hand, an annual Finance Bill sits well with an annual Budget process, for rates and bands and general improvements to legislation. On the other, one might question whether an annual process is excessive in relation to the devolved taxes and may lend itself to unnecessary tinkering and change. It is hoped that this will be addressed in the near future.