

Air Departure Tax (Scotland) Bill

Business and Regulatory Impact Assessment

December 2016

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Title of Proposal

Air Departure Tax (Scotland) Bill

Purpose and intended effect

• Background

The provisions of the Scotland Act 2016, which received Royal Assent on 23 March 2016, gave the Scottish Parliament legislative competence over the power to charge a tax on the carriage of passengers by air from airports in Scotland.

As a consequence, the Air Departure Tax (Scotland) Bill (“the Bill”) was introduced to the Scottish Parliament on 19 December 2016 setting out the Scottish Government’s legislative proposals for Air Departure Tax (“ADT”), which will replace UK Air Passenger Duty (“APD”) in Scotland from 1 April 2018.

Revenue Scotland, Scotland’s tax authority for devolved taxes, will be responsible for the collection and management of ADT.

• Objective

The Scottish Government’s overarching objectives are:

- To design and structure ADT in a way which boosts Scotland’s international connectivity and helps generate sustainable growth.
- To put in place the necessary legislative framework for the collection and management of ADT, ahead of it coming into effect in Scotland from 1 April 2018.

• Rationale for Government intervention

The Scottish Government has long called for the devolution of APD to the Scottish Parliament, believing the tax to be an increasing burden on airports, airlines and passengers which holds back air route development.

Now that the Scotland Act 2016 devolves powers over APD in Scotland to the Scottish Parliament, the Scottish Government aims to design and structure ADT in a way which boosts Scotland’s air connectivity and economic competitiveness, encouraging the establishment of new routes which will enhance business connectivity and tourism.

The strategic context for the Scottish Government’s aims can be found in Scotland’s Economic Strategy published on 3 March 2015¹, which sets out the ambition to create a more cohesive and resilient economy that improves the

¹ <http://www.gov.scot/Resource/0047/00472389.pdf>

opportunities, life chances and wellbeing of every citizen in Scotland. Internationalisation is one of the four priorities for sustainable growth which underpins this strategy.

Consistent with the strategic internationalisation priority, the Scottish Government plans to reduce the tax burden of ADT by 50% reduction by the end of the fifth session of the Scottish Parliament. The Bill as introduced does not set out the tax bands or tax rate amounts which underpin the delivery of the planned 50% reduction in the overall tax burden. Detail on tax bands and tax rate amounts will be delivered at a later date and this will be subject to separate assessment. These factors are therefore beyond the scope of this BRIA.

Consultation

- **Within Government**

The Scottish Government's legislative proposals for ADT have been developed through close collaboration and engagement with officials in Transport Scotland and Revenue Scotland.

- **Public Consultation**

The Scottish Government carried out a public consultation on its policy proposals for ADT over a 12 week period from 14 March to 3 June 2016. The Scottish Government received 160 responses to the consultation. Of these, 76 were from group respondents and 84 from individuals. A consultation analysis report and the responses received to the consultation (other than those where respondents asked for their comments to be kept confidential) were published on the Scottish Government's Citizen Space platform on 29 July 2016 at: <https://consult.scotland.gov.uk/fiscal-responsibility/air-passenger-duty>.

In addition to this public consultation, the Scottish Government established a stakeholder forum on 6 August 2015 to provide expert input into the development of its policy and legislative proposals for ADT. Chaired by the Cabinet Secretary for Finance and the Constitution, membership of the stakeholder forum is formed from a broad range of sectors including airlines, airports, travel organisations, business representatives, tax accountancy and legal professional bodies and environmental organisations. Papers and notes of all forum meetings, as well as the current terms of reference, are available on the Scottish Government website at: <http://www.gov.scot/Topics/Government/Finance/scottishapproach/airpassengerduty/APDstakeholderforum>

The Scottish Government has used the results from the public consultation, as well as the feedback and input from the stakeholder forum, to inform the content of the Bill as introduced.

- **Business**

The Scottish Government asked a number of airlines and representative bodies to provide views on the likely costs and benefits of the introduction of ADT and to identify any associated risks. 10 organisations and businesses of various sizes

within the sector responded to specific questions regarding the impact of ADT on their business and the industry as a whole. Their comments are summarised below in the Scottish Firms Impact Test section.

Options

Option 1) – Do not replace APD once it is disapplied in Scotland from April 2018.

Option 2) – Introduce a tax replacing APD in Scotland from 1 April 2018.

Option 1) Do not replace APD once it is disapplied in Scotland from 1 April 2018

APD has been in operation in the UK since 1994 and so this option represents the one of greatest change and is not a 'business as usual' option.

Sectors and groups affected

From April 2018 aircraft operators would no longer be liable to pay a tax on the carriage of passengers by air from airports in Scotland.

Benefits

The cost of air travel to aircraft operators (and potentially passengers if the aircraft operators continue the standard practice of passing the tax charge onto passengers) would be reduced if no tax was payable.

The cost to aircraft operators for making tax returns would be reduced.

No additional costs would be incurred by Scottish Government or Revenue Scotland in relation to the implementation and then the collection and administration of tax.

Costs

The Scottish block grant payment will be adjusted to reflect the fact that APD will be disapplied in Scotland, which will result in an immediate material reduction in the Scottish budget.

Option 2) Introduce a tax replacing APD in Scotland from 1 April 2018.

Sectors and groups affected

Revenue Scotland will be responsible for the collection and management of the replacement tax. The aircraft operators will need to register and then submit their tax returns to Revenue Scotland rather than HMRC. This option would be unlikely to have any significant effect on any other groups.

Benefits

Scottish Government would continue to receive revenue from tax charged on aircraft operators based on the number of chargeable passengers.

Tax administration would be overseen by Revenue Scotland that facilitates an efficient

online registration and tax return system.

There are not expected to be any additional on-going costs to aircraft operators as a similar tax system is already in place. The online system for registration and tax returns should result in less administrative and compliance activity being required, and thus lower running costs for aircraft operators, especially large commercial operators.

Costs

This measure is expected to have a negligible impact on businesses as a similar system is currently in operation. The aircraft operators affected will incur a one-off cost to register on Revenue Scotland's system and to adjust their systems and processes, which is expected to be negligible.

Revenue Scotland will incur additional costs associated with the programme to deliver ADT and the costs of establishing a staff team to collect and manage the tax from 1 April 2018. The costs of set-up are estimated at £1,455 000 and then it is estimated that the annual running costs would be £555,000.

Scottish Firms Impact Test

A number of airlines, travel organisations and their representatives that operate in Scotland responded to the Scottish Government questions about the potential impacts of the introduction of ADT. The majority of respondents agreed that the introduction of ADT is unlikely to have any negative impact as APD is already in existence. Any additional costs of IT programming and process changes at the introduction of ADT are expected to be marginal. Although the cost and complexity of compliance will vary between individual airlines, the general understanding is that if the scope and the structure of ADT broadly mirrors that of APD the increase in administrative burden on airlines will be minimal. The potential confusion about which is the relevant tax authority, particularly during the transition period, was highlighted. This risk will be mitigated by a joint programme of communications by Revenue Scotland and HMRC and clear transitional rules. All of the respondents agreed that there will be no cost savings for the airlines as a result of the implementation of ADT.

Competition Assessment

ADT will be charged on the carriage of chargeable passengers on chargeable aircraft on flights from airports in Scotland. The tax is to be payable by aircraft operators. Using the Competition & Markets Authority Competition Filter questions we have concluded that the proposals will neither directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

If adopted, the proposed actions would create a situation where all aircraft operators that carry chargeable passengers on chargeable aircraft on flights from Scottish airports would be required to register for ADT and make tax returns. Therefore no operator will be unfairly disadvantaged.

Test run of business forms

No new forms for business will be introduced.

Legal Aid Impact Test

As confirmed by the Scottish Government's Access to Justice Team, none of the proposals in the Bill are likely to give rise to increased use of legal processes or create new rights or responsibilities or have possible impacts on the legal aid fund.

Enforcement, sanctions and monitoring

Revenue Scotland will have powers in relation to the collection and management of ADT and the RSTP Act (2014) provides for its general and particular functions. The RSTP Act sets out the tax management system that underpins all devolved taxes in Scotland, along with the powers and duties of taxpayers and Revenue Scotland and it outlines the investigatory powers of Revenue Scotland. The RSTP Act also sets out the process for issuing penalties in respect of non-compliant behaviour and contains provisions for debt enforcement.

In addition, the RSTP Act provided for the establishment of the Scottish Tax Tribunals to hear appeals against devolved taxes, which will be superseded by the unitary Scottish Tribunals from 2017 and sets out the reviews and appeals process.

Scottish Government will assess the impact of the devolution of ADP by monitoring receipts and information collected on tax returns.

Implementation and delivery plan

Revenue Scotland will be responsible for the collection and management of ADT and will establish a programme of activity to deliver the systems, processes and other requirements for ADT by the implementation date of 1 April 2018.

Post-implementation review

Scottish Government officials will liaise with Revenue Scotland during the transition and implementation process as well as after the tax has come into effect on 1 April 2018 to ensure that any emerging issues are dealt with appropriately.

Summary and recommendation

After careful consideration, the Scottish Government recommends the adoption of option 2, which is to introduce a tax that is broadly similar in structure and operation as UK APD. We recommend this option on the basis that it will reduce the uncertainty and make the transition easier for the businesses affected.

Summary costs and benefits table

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
Do not replace APD once it is disappplied in	The cost of air travel to aircraft operators and potentially passengers would	The Scottish block grant payment will be adjusted to reflect the fact that APD will

<p>Scotland from April 2018</p>	<p>be reduced if no tax was payable.</p> <p>The cost to aircraft operators for making tax returns would be reduced.</p> <p>No additional costs to Scottish Government or Revenue Scotland in relation to the implementation and then the collection and administration of tax.</p>	<p>be disapplied in Scotland, which will result in an immediate material reduction in the Scottish budget.</p>	
<p>Introduce a tax replacing APD in Scotland from 1 April 2018.</p>	<p>Scottish Government would continue to receive revenue from tax charged on aircraft operators based on the number of chargeable passengers.</p> <p>There are not expected to be any additional on-going costs to aircraft operators as a similar tax system is already in place.</p> <p>Tax administration would be overseen by Revenue Scotland that facilitates an efficient online registration and tax return system.</p>	<p>The one-off cost associated with the requirement to register with Revenue Scotland is expected to be negligible.</p> <p>Revenue Scotland will incur additional costs associated with the programme to deliver ADT</p>	

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:**Date:****Derek Mackay, Cabinet Secretary for Finance and the Constitution****Scottish Government Contact point:**

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