

A Scottish approach to taxation call for evidence

Date: 29 September 2016

To: finance.committee@scottish.parliament.uk

**The Clerk to the Finance Committee
Committee Office
The Scottish Parliament
Edinburgh
EH99 1SP**

From: **Jason Rust
Scottish Land & Estates
Stuart House
Eskmills Business Park
Musselburgh
EH21 7PB**

Tel: (0131) 653 5412

E Mail jason.rust@scottishlandandestates.co.uk

Scottish Land & Estates is a membership organisation representing landowners, land managers and rural businesses across Scotland. The majority of these are small to medium sized family businesses. Our members are interested in the new devolved arrangement in relation to public finance and we welcome the opportunity to respond to this call for evidence.

Scottish Land & Estates has a Taxation Group within our organisation and has long been interested in the operability of taxation policy and guidance as it affects our membership. At a Scottish level we have been pleased to attend the Devolved Tax Collaborative meetings arranged by the Scottish Government and other relevant stakeholder groups. In addition we continue to engage with the UK Government on reserved taxation matters.

How can the Scottish Government's four principles to underpin Scottish taxation policy best be achieved?

Observing the four principles of taxation policy expounded by the Scottish Government and as set out in the call for evidence, we would suggest a fifth possible principle, "Taxation rules should be comprehensible, coherent and unambiguous". Adam Smith's canon of "simplicity"

may not be entirely achievable within the contemporary tax framework and architecture, but ensuring the rules being applied are understandable, consistent and as explicit as possible should be key. While this may relate to the principle of 'certainty', we feel the Scottish Government should expressly have this as part of its underpinning principles to assist not only the taxpayer, but also Revenue Scotland. Guidance should relate to policy matters as opposed to individual taxpayers or categories of taxpayer. Uncertainty around taxation systems generally has a negative effect on consumer and business confidence, investment and productivity. Any long-term fiscal uncertainty for Scotland could be extremely damaging to its economy.

In order to meet the principles, specifically of 'convenience' and 'efficiency', adequately trained staff and appropriately designed and employed systems/technology is required. Personnel should be suitably qualified and experienced and understand the tax provisions to ensure that investigation into a taxpayer's tax liability is focused, efficient and not unduly time-consuming or burdensome. At present we are aware of member concerns around the quality of technical responses received from Revenue Scotland in relation to Land and Buildings Transaction Tax.

Generally, the aim must be creating fairer, less complex and more certain tax law.

How does the current taxation regime and proposals for newly devolved taxes align against these four principles?

As the call for evidence highlights, the devolution of tax powers under the Scotland Act 2012 and 2016 moves the focus from expenditure to revenue-raising and therefore we feel that this changed focus should also result in a review of the Scottish Government's budget process. Rather than a fixed block grant situation, the budget will be subject to more uncertainty with greater reliance on forecasts and subject to macroeconomic risks. Increased scrutiny will therefore be needed by both the Finance Committee of the Scottish Parliament and by the whole Parliament of information and data available and this should be as transparent as possible so there is clarity about assets and liabilities.

More generally the devolution of the recent taxation powers was done very swiftly thereby resulting in limited scrutiny and without clear cognizance of these guiding principles. We feel it is too early to judge how closely aligned the new powers are against these principles.

Is there scope for a fundamentally different approach to taxation in Scotland?

As an apolitical organisation we do not wish to stray into the politics or ideology of taxation and that will be for the different political parties to set out their own vision of fiscal policy and present to the public. However, as far as possible we do consider that a harmonised approach in relation to collection and penalties with the rest of the United Kingdom should be preferred and we do not at this time see an obvious justification for this not being the case. A level playing field between the different parts of the United Kingdom is important to ensure Scotland remains competitive, especially given how intertwined our economies are. We also believe that mobility of labour has to be borne in mind when setting tax rates. Evidence from the *Institute for Fiscal Studies* has suggested that the incomes of additional rate taxpayers can be very sensitive to changes in the rates of tax that they pay, whereby increases may lead to, for example, relocation. There is some scope for a different approach though and presently there are of course different general anti-avoidance rules in Scotland from elsewhere in the UK.

Should future tax changes be ring-fenced and if so, how? If not, why?

Scottish Land & Estates does not have a view on this, but clearly forecasts require to be accurate for ring-fencing to have effect.

To what extent do potential behavioural responses limit options for tax changes in Scotland?

Behavioural responses do place limitations on response, but also provide opportunities. In terms of landfill for example, changes to taxation have been shown to be successful in contributing to recycling rates. Even where tax is not devolved, Scottish Government should consider how its proposals, for example land reform, may affect behaviours due to tax or where tax changes could assist Scottish Government policy (for example community right to buy).

As suggested earlier in our response, uncertainty around taxation systems can have a negative effect on the confidence of stakeholders. It is therefore vital that there is certainty in the system and tax changes are communicated well in advance. Any potential changes require to be fully understood in advance, including the effects on individual taxpayers and businesses. There needs to be consideration not only of envisaged optimistic, but pessimistic, forecasts. We would also emphasise our point above regarding the mobility of labour and the reality that attempted behavioural change may result in those affected undertaking further tax planning to minimise the impact. The higher rates of LBTT compared to SDLT for higher end transactions together with the decision to impose LBTT supplement on second homes unless a new principle residence is acquired within 18 months in Scotland compared to the more generous time period of 36 months in the rest of the UK has been observed as a sign that Scotland is heading in the direction of imposing a higher overall tax burden. Rightly or wrongly this view of the future is widely held and is likely to affect inward investment.

To what extent do the mechanisms for administering the Scottish income tax system via HMRC limit the scope for a different tax system in Scotland to develop?

The operation of tax collection through HMRC has an established basis and could continue to service the needs of Scotland. This is dependent on the scope within the HMRC processes and systems to have an elasticity to deal with, for example, changes to thresholds and rates. There are clearly benefits of continuing with HMRC such as a stable system, long-recognised brand and a single collection agency and close links should be maintained. Arguably, it is not so much the administration which is limiting, but the nature of devolution and the extent to which tax is devolved.

Are there any other administrative limitations to the emergence of a Scottish tax system?

We would envisage the additional set-up costs (including the time required by all affected by it to achieve high compliance standards) would be the major limitation.

Jason Rust
Legal Adviser

September 2016