Scotland Bill

Institute of Chartered Accountants of Scotland (ICAS)

About ICAS

1. The Institute of Chartered Accountants of Scotland (“ICAS”) is the oldest professional body of accountants. We represent around 20,000 members who advise and lead businesses. Around half our members are based in Scotland, the other half work in the rest of the UK and in almost 100 countries around the world. Nearly two thirds of our members work in business, whilst a third work in accountancy practices. ICAS members play leading roles in around 80% of FTSE 100 companies.

2. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. Evidence provided by ICAS representatives’ aims to inform in a positive and constructive manner. ICAS is apolitical and will not take a stand for or against a particular political position. From a public interest perspective in relation to tax, our role is to share insights from ICAS members in the many complex issues and decisions involved in tax system design, and to point out operational practicalities. Our representatives also contribute based on the collective experience of decades of work which ICAS members and staff have undertaken with both the UK and Scottish Parliaments and the tax authorities on the shared agenda of a better-balanced outcome for all tax stakeholders.

General comments

3. ICAS gave evidence in March 2015 to the Devolution (Further Powers) Committee regarding its inquiry ‘Implementing the Smith Agreement – the UK Government’s Draft Legislative Clauses’. We welcome the interim report ‘New Powers for Scotland: An Interim Report on the Smith Commission and the UK Government’s Proposals’ issued by the Committee on 15 May 2015 and the evidence below follows on from that provided in March 2015 now that the UK Government’s Scotland Bill has been published.

4. Our evidence is restricted to ICAS areas of specific expertise, which in relation to the Scotland Bill is primarily taxation.

5. Following on from our earlier evidence to the Committee, it remains the case that the draft clauses in the Scotland Bill, clauses 12 - 18, should do what they set out to do. They will result in three different levels or types of devolution, comprising of:

- Fully devolved taxes: The Scotland Bill will enable Air Passenger Duty (APD) and Aggregates Levy to be switched off in Scotland. It will then rest with the Scottish Parliament to decide whether to legislate for Scottish versions of these taxes.
- Partial devolution: The Scotland Bill will result in amendments to the UK Income Tax Act 2007, and other consequential amendments, so that the Scottish Parliament is responsible for setting the rates and bands to which non-savings income is charged.
• Assignment: A proportion of VAT will be assigned to Scotland.

6. Since we gave evidence to the Committee in March there has been considerable work undertaken in Scotland, and Westminster, to assist in the devolution of tax and other powers as recommended by the Smith Commission.

7. There are, however, still questions around the non-statutory measures to resolve and these include:

• The calculation of adjustments to the block grant
• The establishment of a fiscal framework
• The interpretation of the “no detriment” principle, and
• The basis of the agreement between the Treasury and Scottish ministers for identifying the amounts of standard rate and reduced rate VAT attributable to Scotland.

These form much of the framework of the revised devolution settlement, and the tax issues addressed by the Scotland Bill are sub-ordinate to this framework. Although the contents of the Scotland Bill reflect the recommendations of the Smith Commission on tax, the successful implementation of the Smith proposals will be dependent on this wider framework.

8. The design and implementation of a Scottish fiscal framework is fundamental to the devolution of further powers to Scotland, both in terms of how these powers are exercised and the redefinition of the boundaries of accountability between the Scottish and UK Governments. The manner in which the fiscal framework is agreed, put in place and its interaction with the overall UK fiscal framework is key to how further devolution is likely to work in practice.

Scottish Rate of Income Tax

9. In parallel with the work to implement the Smith Commission proposals, there has also been significant work within HMRC concerning the Scotland Act 2012 measures for the Scottish Rate of Income Tax, which applies with effect from 6 April 2016. The Scottish Rate of Income Tax should be allowed time to bed in, and the processes evaluated, before further changes to income tax with the Scotland Bill 2015-16 are implemented.

10. The requirements in the Scotland Bill 2015-16 to charge Scottish rates and bands of income tax will build on existing legislation and administration. However, it needs to be clarified whether the IT changes implemented by HMRC to deliver the SRIT will also be able to implement the further devolution, or whether further updates will be required and additional costs incurred. If updates are required, it would need to be considered if the capability is to be built before any changes to rates and bands.

11. In the UK Spring Budget it was announced that a new Personal Savings Allowance is to be introduced with effect from 6 April 2016. This will apply across the UK and is estimated by HMRC to remove 95% of taxpayers from the charge to income tax on savings. Alongside the announcement in the Summer Budget about dividend income, this should ease the administration of tax for those higher
rate Scottish taxpayers who receive savings and/or dividend income and would otherwise have had to account for further UK income tax through a tax return. Scottish taxpayers with significant levels of savings and/or dividend income will, however, have the additional complication and expense of reporting these to the UK tax authorities and ensuring that the right rates of tax are applied to their income. This will remain the case when the Scotland Bill 2015-16 income tax measures are introduced.

Scottish taxpayers

12. The Scotland Act 2012 contains a test to identify who is a Scottish taxpayer for the purposes of the Scottish Rate of Income Tax. It is based on ‘close connection’ and where a person has their place of residence. This provides certainty for the vast majority of taxpayers who have one home. The legislation also provides for where a person has more than one place of residence, however, there can always be uncertainty when a taxpayer is mobile and not permanently in one jurisdiction. For example, a migrant worker or a person who is very wealthy with a number of homes across the UK may be difficult to pin down to one tax jurisdiction. HMRC has issued draft guidance on the definition of a Scottish taxpayer with a number of illustrative examples and ICAS has commented on this.

13. Our suggestions concerning the guidance include:

- A request to include details of the appeals process regarding Scottish taxpayer status, and
- That there needs to be a campaign to raise awareness about the SRIT.

14. ICAS has also called for the early publication of guidance for employers.

15. One of the recommendations of the Smith Commission was in relation to improving public understanding of Scotland’s constitutional settlement. In our experience, there is still a lack of awareness of the different devolved taxes and we would welcome wider publicity, particularly from policy-makers. We will be submitting evidence to the Scottish Parliament Finance Committee by 28 August in relation to this point.

Submissions by ICAS on related topics

16. ICAS has contributed to the ongoing public debate regarding the devolution of further tax powers and the associated fiscal framework. Our submissions may be found at:

ICAS evidence on Scotland's fiscal framework to the Scottish Parliament Finance Committee, April 2015

ICAS evidence to the Scottish Government on the Scottish Fiscal Commission, June 2015


ICAS evidence on draft HMRC technical guidance on Scottish taxpayer status, July 2015