About Justine Riccomini:
1. I am a partner in a newly-formed independent tax and HR advisory business, based in central Scotland. Prior to this I held senior positions in firms of accountants in Scotland and England and was previously employed by HMRC.

General comments:
2. Thank you for asking me to submit my comments on the general principles of the Bill. My comments below are my own view on the proposed structure and scope of the proposed legislation.

3. I largely agree with the proposals, but I do have concerns about the proportionate ability to pay in terms of the penalty levies and the timescale for payment of penalties. I also have concerns about the ability of Revenue Scotland to handle the relevant administration which this penalty regime would impose upon it. In addition to the everyday work of running Revenue Scotland’s day to day business, appeals, penalties and enforcement are exceptionally time consuming and difficult to automate. HMRC knows this and is currently experiencing the same issues with Real Time information penalties, for example, which is why they have been postponed - no doubt a significant additional cost and embarrassment to HMRC.

4. As Revenue Scotland is in its infancy and can only grow, I would also like to see some reference made to which body will oversee, regulate and monitor Revenue Scotland - presumably this will be Audit Scotland. In this day and age I believe it is important to have transparency of government and the public wish to know that their money is being spent efficiently, and that departments are fully accountable and effective.

Specific Comments:
The Scottish Government’s overall policy objectives in introducing the Bill and whether the Bill reflects—
“Adam Smith’s four maxims with regard to taxes: certainty, convenience, efficiency and proportionate to the ability to pay.”

5. My comments regarding the ability to pay (penalties) are set out in the penalty section below.

The proposed approach to the establishment and constitution of Revenue Scotland as a non-Ministerial Department and its membership;
6. I agree with the proposals to make Revenue Scotland a non-ministerial department and with its proposed membership.
The functions of Revenue Scotland;
7. I agree with the proposed functions of Revenue Scotland. Obviously, there are not very many staff in the department at present but this may change over time as SRIT and other potential devolved taxes begin to take shape. The introduction of other devolved taxes may or may not be affected by the Scottish independence referendum on September 18th 2014 and this could potentially influence the taxes being dealt with and the staffing levels required to handle these taxes.

8. Regarding Part 2, s.10 (2) (a) and (b) I would wish to see the word “aspire” changed to “adhere”. It is not enough for the charter to set out aspirations - there must be clear codes of conduct and behaviour which cannot be open to subjective interpretation.

The independence of Revenue Scotland;
9. I agree with the proposed independent setup of Revenue Scotland. I also believe that with reference to Part 2, s.8 (3) all interactions with Ministers as to the running of Revenue Scotland and its remit and responsibilities should be fully publicised in the spirit of open government. I do not believe that any part of Revenue Scotland’s activities should be exempted from the Freedom of Information Act as currently applies to some of HMRC’s activity. There is no threat to national security - it is merely a taxation regime.

The investigatory powers of Revenue Scotland;
10. Part 7, Ch.4, s.140 refers to the power to take samples of material from the premises if the officer has reason to believe the taking of the sample is reasonably required in order to verify a person’s tax position. Please would it be possible to offer a short (not exhaustive) list of examples of what kind of samples could be obtained in this regard?

The proposed approach to the Scottish tax tribunals;
11. I have no comments to add to the proposed set up of the Scottish tax tribunals. I agree with the proposals.

The General Anti-Avoidance Rule;
12. I agree the proposals for the general anti-avoidance provisions.

The proposed approach to tax returns, enquiries and assessments;
13. Under Part 6, Ch.2, s. 69, subsections 5-8 is specific to land transactions rather than to “devolved taxes”. Perhaps another sub-section should be inserted to deal specifically with matters as has been done at s.72 of the same chapter (i.e. concerning LBTT). Otherwise, if the general powers are extended in future to other taxes, these sections will have to be changed at that point.

14. Part 6, Ch.7, s.98 is somewhat misleading as it is entitled “Overpaid tax, etc.” when in fact the section refers to overpayments or excessive determinations specifically where the taxpayer believes the tax not to be due, as opposed to general overpayments. Perhaps the chapter and section should make reference to cases where the “taxpayer believes the assessment or collection to be excessive or not due".
The proposed approach to penalties;
15. In general I agree with the penalty determinations but I consider that the ability to pay a penalty within 30 days could present problems in certain circumstances. It may be the case that Revenue Scotland finds itself entrenched in a quagmire of bureaucracy as a result of issuing penalty notices which remain unpaid by taxpayers. As a result, Revenue Scotland could find itself spending more time on the non-compliant taxpayers than on the compliant ones. The penalty regime and its enforcement need to be thought through carefully to avoid the mistakes of HMRC.

The proposed approach to interest on payments;
16. I have no comments to make and generally agree with the proposals.

The proposed approach to enforcement;
17. I broadly agree with these proposals and have no further comment to make.

The proposed approach to reviews and appeals;
18. I agree with these proposals.

The financial implications of the Bill as estimated in the Financial Memorandum (FM).
19. I have not had the chance to review these details in any great depth due to existing commitments, but I would like to see some reference made to how accountability, effectiveness and efficiency are measured and by which body said measuring will be independently carried out - i.e. Audit Scotland on behalf of Ministers.