



Scottish Government

Tourism Tax: discussion document

25 January 2019

About ICAS

1. The following submission has been prepared by the ICAS Tax Board. The ICAS Tax Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community, which consists of Chartered Accountants and ICAS Tax Professionals working across the UK and beyond, and it does this with the active input and support of over 60 board and committee members.
2. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants and we represent over 21,000 members working across the UK and internationally. Our members work in all fields, predominantly across the private and not for profit sectors.
3. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members in the many complex issues and decisions involved in tax and financial system design, and to point out operational practicalities.

General comments

4. ICAS is grateful for the opportunity to contribute its views in relation to 'Tourist Tax: discussion document' published by the Scottish Government on 23 November 2018. ICAS was also pleased to be able to participate in the round table discussion held in Edinburgh on 4 December 2018.
5. We have restricted our comments to general comments and to matters relating to taxation policy, rather than addressing the specific questions in the document.
6. In Scotland there is scope for new devolved taxes and there has been a series of discussions about tourist taxes instigated by both the Scottish Government and by some local authorities.
7. Proposals for any new taxes need robust public debate before proceeding – there are a number of issues to consider before seeking to introduce any new tax, including:
 - the authority to create a new tax
 - the objectives of a new tax, which could be to raise money; or to encourage/ discourage certain behaviours
 - whether the responsibility should sit at Holyrood or with the local authorities
 - the rationale for the individual tax being put forward
 - the revenues likely to be raised
 - the locus of the tax – i.e. local, regional or national
 - the potential for the tax to have perverse or undesirable effects, and
 - practical administrative issues associated with tax design and revenue collection.
8. The tax objectives and design features are discussed in further detail below.

The objectives of a new tax

9. If new tourist taxes are to be introduced, it is important that there are sound reasons for doing so. The Scottish Government has set out its commitment to the overarching principles underpinning Scottish taxes, based on the four Adam Smith principles. These are:
 - certainty: so, for example, both taxpayers and those affected by the cost of the tax can take financial decisions from an informed position on future tax policy
 - convenience: minimising administration for taxpayers and stakeholders such as accommodation providers
 - efficiency: to minimise the cost of implementation and collection, and
 - proportionality to the ability to pay.
10. Practical objectives are also important. The objectives of tax raising and the interaction between them need to be identified. Key objectives in tax policy design should be to:

- be part of a broad but balanced tax base where the different taxes, both direct and indirect, interact cohesively
- raise funds – or if it is to drive behaviour, recognise that the tax may not raise funds
- be simple to understand
- support other policies such as economic growth, with clear accountability to connect decisions on the spending of public funds with taxes raised
- be cost effective to administer (i.e. high collection rates, predictable revenues and difficult to avoid) and
- be best value (i.e. the government should not take more than it needs or be profligate with public funds).

11. There needs to be a clear articulation of the objectives of any new tax.

The mechanics of introducing new taxes

12. The process for deciding whether a new tax may be appropriate needs to be clear. First, there are the legalities - is it within the competence of Holyrood? The Scottish Parliament can create new taxes, but this process is subject to approval by Westminster (through an Order in Council). Secondly, what processes are required in implementing a new tax?

13. The powers of the Scottish Parliament to introduce new devolved taxes, or amend the provisions of existing devolved taxes, derive from Section 80B of the Scotland Act 1998 inserted by [section 23 of the Scotland Act 2012](#). Provisions that relate to reserved matters (defined in [Schedule 5 of the 1998 Act](#)) are outside the Scottish Parliament's powers. Any proposed new tax will be within the Scottish Parliament's powers if its underlying purpose is within devolved competence (defined in section 29(2) of the Scotland Act 1998). It is expected that a tourist tax could be introduced by Holyrood.

14. The following steps are required in the making of good tax law:

- Wide consultation on the policy proposals, in order to ensure that there is public support for the proposal to introduce a particular tax
- Wide consultation throughout the process of formulating legislation in order to ensure that the legislation is robust and as well drafted to meet its purpose as it can be
- Gaining knowledge of the practical experience learned by other countries who have already introduced similar taxes – in this case, for example, Belgium, France and Germany
- Close liaison between policy makers and administrators so that the tax design takes into account compliance and the ability of the tax authority to collect and administer the tax, and those responsible for collection such as accommodation providers. Tax administration procedures should be clear, efficient and cost effective
- Clear legislative provisions, clear guidance and thorough training for staff who will implement the policy
- Legislators need to be mindful of potential behavioural reactions by taxpayers and ensure that the scope for tax avoidance is limited as far as possible
- Setting out a long-term tax strategy may mitigate the potential adverse effects of uncertainty about what will happen in future years.

Should a new tax be raised by Holyrood or by local authorities?

15. A tourist tax may lend itself to being set and administered at a local level by local authorities because:

- the tax base may be localised, and
- there is little scope for the respective tax bases to relocate across local authority boundaries.

16. One of the reasons put forward by those in favour of a transient visitor levy is to reduce congestion during the tourist season – an argument which probably applies more to the city of Edinburgh than, say, Livingston. A locally based tax would make it easier for such boundaries to be defined.

17. On the other hand, it may be more efficient given the large number of local authorities to have one tax designed and applied nationally; or designed nationally but with, say, flexible locally applied rates.
18. With local tax raising, it may open up the possibility that such taxes create a cycle of funding inequalities between local authorities that increases over time – i.e. those local authorities with, say, strong tourist demand would be able to raise most revenue from a levy, which in turn enables them to strengthen the tourist offering further.
19. Clarifying the potential redistribution of any income raised would be appropriate before any discussions become too advanced. It is clear from the consultation document that the Scottish Government would wish to retain a share of the revenue as recognition of its role/cost in promoting Scottish tourism nationally and that the potential for a tourism tax is realistically limited to a fairly narrow range of locations. Measuring the appetite for revenue redistribution and retention by central Government would be advisable.

Hypothecation – does this provide answers?

20. Tax is never popular – so how can more be raised if it is agreed that this is required to meet spending needs? Hypothecation is often put forward as the answer, on the basis that there will be greater public acceptance of increased or new taxes if they are raised for specific (popular) purposes.
21. Some of the potential local taxes perhaps lend themselves to hypothecation. Should a tourist tax pay for services for tourists (funding events) or contribute to the services that are most used by tourists (e.g. rubbish collection)?
22. Full hypothecation might mean inadequate funding if the tax did not produce enough revenue. The tax receipts might also vary from year to year – fewer tourists due to global recession (or if it is a local tax fewer tourists in the local area for a local reason).
23. More broadly, in terms of public policy regarding the levying of taxes, care needs to be taken, and there should be a full public debate, before this path is followed. Hypothecation implies that the taxpayer is simply paying for a particular item or service. Following this logic, taxpayers should only pay for what they use which undermines the notion of contributing to the common good. If taxation is levied for the common good, all funds should be collected together and then decisions made about their use. Hypothecation also limits flexibility for government policymakers.
24. From an operational aspect, restricting funds to the provision of certain goods or services is limiting, adds to the administrative burdens, and reduces flexibility around spending decisions.

Competition and behavioural consequences

25. Tax can drive behavioural change. For instance, would a tourist tax result in lower tourist numbers visiting an area? This might depend on the rate and whether surrounding areas had no (or a lower) tourist tax. Tourists might also decide to reduce the length of their stay. Likely behavioural responses need to be taken into account in deciding on the structure and rates of new taxes – and estimating the revenues which might be produced. This may sometimes restrict the options available.
26. However, in some cases a tax may be specifically designed to change behaviour – for instance if less tourists were wanted in certain areas or at certain times of the year and achieving that could be more important than raising revenue. There needs to be a clear analysis of the objectives of any proposed tax and consideration of the likely behavioural change that may result from its introduction. Without this there could be unintended adverse consequences.
27. ICAS welcomes the opportunity to participate in further discussion as Scottish Government's policy develops.