



Scottish Government
Devolved Taxes: A Policy Framework
ICAS Response to Consultation

6 June 2019

Introduction

1. 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 welcomes the opportunity to respond to the consultation 'Devolved taxes: a policy framework', issued by the Scottish Government in March 2019. ICAS has also been pleased to meet with officials to discuss the consultation and to participate in the associated events.
5. To date, a key issue is that there is no regular process for bringing forward and considering policy or legislative changes to the devolved taxes, and possible amendments to tax law have been raised on an ad hoc basis. The establishment of a more strategic and structured approach to wholly devolved taxes is a positive move by the Scottish Government, which we welcome.
6. ICAS members were invited to contribute to a joint CIOT/ATT/ICAS survey on the topics raised in this consultation, the results of which have been discussed in the CIOT submission. Two-thirds of the ICAS members who responded to the survey were also CIOT members.

Specific responses to questions

Question 1: Do you welcome the use of the Devolved Tax Collaborative (DTC) as an annual tax forum and agree with its stated purpose?

7. In 2013, the Scottish Government established the Devolved Tax Collaborative (DTC) as a means of bringing together the tax advisory community and others with an interest in tax. ICAS participated in those meetings and found them to be helpful. Since then, tax conversations have been more targeted and conducted in the LBTT forum and the SLfT forum, both of which are hosted by Revenue Scotland.
8. There is a distinction to be drawn between the DTC which was run by the Scottish Government to consider policy matters, and those fora run by Revenue Scotland focusing on the operational aspects of the devolved taxes.
9. We consider that it would be helpful to have a forum such as the DTC re-established by the Scottish Government, in which a range of stakeholders are able to input their views on wider policy matters. For example, such topics could include whether the powers to introduce new taxes should be exercised or which new taxes could be considered. The DTC could also be a forum in which to discuss the sharing of tax powers with local authorities – and how and to what extent tax powers should be devolved.
10. There may also be occasions when more than one meeting a year might be convened to take account of events throughout the year, and as an ongoing 'review and reflect' process.

11. The Devolved Tax Collaborative and its policy discussions should be in addition to the fora run by Revenue Scotland for LBTT and SLfT. At the same time, policy and operational matters need to interact; both the Scottish Government and Revenue Scotland have responsibilities for making sure these aspects of taxation are aligned and can be administered effectively.

Question 2: Do you have any other preferences as to how the Scottish Government should carry out engagement on the fully devolved taxes?

12. There are a number of ways in which engagement can take place, although we note from the survey of ICAS and CIOT members that the respondents have a preference for engagement via their professional bodies.
13. In terms of engagement beyond interested tax professionals, having as wide a dialogue as possible with stakeholders and the public would be desirable. This may be encouraged by engaging across a range of locations, and in open meetings, as has been the case with this consultation exercise, and which we welcome. We also recommend that engagement in London should be considered as there is a need for good collaboration between Scottish and UK tax policymakers.
14. Consideration of the outputs from a number of sources may also help to inform policy making, such as academia, think tanks, member organisations such as local chambers of commerce, the FSB and the CBI.

Question 3: Do you support the Scottish Government's proposed approach to tax consultations, in particular consulting on issues collectively rather than on an individual basis?

15. It is debatable whether the Scottish Government should restrict itself to only one consultation per year, covering all matters across, say, RSTPA, LBTT, SLfT, and in due course APD and Aggregates Levy. This carries the risk that each issue would not receive the attention it deserves.
16. However, it may well be helpful to have all consultations which are to be included in the annual cycle (or bi-annual cycle) taking place around the same time so that interested stakeholders can plan and resource their input. It would also assist if interrelated proposed changes/ policies can be seen in the round.
17. To be fully effective, the policy consultation cycle needs to mesh in with the legislative process and budgetary processes. This suggests that policy making, and related consultation should take place at one time in the year (or cycle).
18. A distinction should be made between policy consultations and consultations on draft legislation. There is likely to be a more diverse range of stakeholders with an interest in, and contributions to make to, policy considerations, whereas draft legislation may be of interest to a more limited number of interested parties such as the professional bodies and their members.
19. The topic may also influence the proposed method of consultation. For example, stakeholders in some areas may be sector specific, such as with Scottish Landfill Tax, and this should be borne in mind. A single targeted consultation may be more effective, rather than including a sector specific point in an all-purpose consultation.

Question 4: What are your views on the proposed policy and legislative cycle?

- 20. The policy and legislative cycle in the consultation paper offers a sensible working model.
- 21. We welcome the inclusion of phase 4 that will provide for a 'review and reflect' approach following the implementing of policy. This is important to enable an analysis to take place of whether the policy as implemented is meeting its objectives, whether there are any drafting defects, and to provide the opportunity to amend or remove any measures that are not fully effective.

Question 5: What are your views on how frequently the cycle should occur - annually or every two years?

- 22. Our members do not have a single view on this matter, although the majority of respondents in the CIOT/ATT/ICAS survey favour an annual process.
- 23. It would be helpful to have a process that is regular; this might be best managed if is annual and tied to a related process such as the budget – an annual finance bill would provide this. A disadvantage of an annual process however is its frequency and that it might invite unnecessary change.
- 24. It may be that with only two devolved taxes at present, a process that runs once every two years may be sufficient. The difficulty around a longer time frame is the inability to deal with any urgent matters, which will either be delayed or require a separate 'exceptions' process. An exceptions process that had to be used relatively frequently would undermine the regular process.
- 25. The key requirement in our view is that the process, whether annual or bi-annual, needs to be regular, predictable and transparent. There should be clarity and visibility about how the cycle works, and how stakeholders can contribute.
- 26. On balance, we believe the process should be annual. This is influenced by the need to cater for policy changes and also for the need to address 'care and maintenance' type measures that arise in practice.

Question 6: Do you consider the existing documents that are published, and the Scottish Government's approach to drafting them, as a sufficient means of clarifying the intention and impacts of a policy?

- 27. There are a number of different audiences for Scottish Government publications on tax, its policy intentions and impacts, and each audience may have differing needs.
- 28. In November 2017, the Scottish Government issued a [paper](#) 'The role of Income tax In Scotland's Budget' prior to the Scottish Budget containing a number of options for exercising its income tax powers, followed by a series of round table discussions with interested stakeholders. This was a most constructive and helpful exercise. The options were laid out and discussed and this helped inform the decision-making in the Budget. Whilst this may not be a necessary step each year for setting income tax rates and bands, or elements of the devolved taxes, it is a process that is highly recommended should there be any proposals that are substantively new or might be contentious, for instance if there is a need to raise significant further funds or if there is a desire to consider whether there are new taxes that could be designed.
- 29. The publications issued with the Budget of December 2018 were helpful to ICAS and its members.

30. Bearing in mind the general lack of knowledge amongst the public of devolved taxation and its impact, as demonstrated by the poll¹ undertaken by ICAS and the CIOT last year, we would support measures by the Scottish Government to encourage wider public engagement and understanding.
31. 'Devolving Taxes Across the UK: Learning from the Scottish Experience' published by the Scottish Taxes Policy Forum (STPF), a joint initiative by ICAS and CIOT, aims to try to raise the profile of Scottish taxes and open a wider debate. ICAS will continue to work on its own and in the STPF to promote awareness of Scottish taxes.

Question 7: Do you agree with the Scottish Government's approach to the circumstances set out in this section?

32. The Scottish Government needs to retain the right to act, and react, without first consulting stakeholders. There is a need for flexibility, and we accept that there will be times when it is not appropriate to follow a full consultative process.
33. Where the exceptions process is used, a part of this should be that a post-implementation review is conducted within a set, relatively short timescale on the change made under the exceptions process as such changes will not have been consulted on/challenged.

¹ <https://www.icas.com/technical-resources/new-poll-discovers-more-than-four-fifths-of-scots-lack-an-understanding-of-devolved-taxes>