

**Scotland in the United Kingdom: An enduring settlement – HM Government
Response from the Low Incomes Tax Reform Group (LITRG)**

1 Introduction

- 1.1 LITRG welcomes the opportunity to respond to HM Government’s Command Paper ‘Scotland in the United Kingdom: An enduring settlement’.
- 1.2 Our particular concern is tax and the interaction of the tax, tax credits and welfare systems. In view of this, our response concentrates on Parts 2 and 3 of the draft Scotland Clauses 2015, although we also make comment on other areas where we have an interest.
- 1.3 We note that as yet, discussions are ongoing concerning a fiscal framework. We will be providing input into an inquiry by the Finance Committee of the Scottish Parliament in respect of this aspect of the Command Paper,¹ and would welcome the opportunity to participate in any other initiatives to engage stakeholders on the matter of devolution of further tax powers to Scotland.
- 1.4 We think that the draft clauses contained within the Command Paper should achieve the Government’s objectives of devolving certain powers. We believe that the devolution of tax and welfare powers should be based on sound principles, and that it is necessary to take a holistic view of the tax and welfare systems.
- 1.5 The Scottish Government has committed itself to a tax system that has regard to Adam Smith’s four principles, as set out in his 1776 publication, “An Inquiry into the Nature and

¹ Chapter 2 Fiscal Framework of Scotland in the United Kingdom: An enduring settlement. The details of the Finance Committee of the Scottish Parliament’s inquiry are available on the Scottish Parliament website: <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/86485.aspx>

Causes of the Wealth of Nations”: certainty; the burden proportionate to the ability to pay; convenience; efficiency of collection.² We agree that these are key principles for any government to bear in mind when developing a tax system. In taking forward the developments discussed in the Command Paper, we think due regard should be given to Adam Smith’s principles.

- 1.6 In devolving further tax and welfare powers to Scotland, it is essential to keep the taxpayer and claimant in mind. It should be straightforward for taxpayers and benefits claimants to deal with their affairs and negotiate the tax and benefits systems. These systems must be easy to understand; obligations on the taxpayer and claimant should be clear. It also needs to be clear which authority they need to deal with for a particular tax or benefit.

2 About Us

- 2.1 The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low income workers, pensioners, migrants, students, disabled people and carers.
- 2.2 LITRG works extensively with HM Revenue & Customs (HMRC), Revenue Scotland and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 2.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT’s primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

3 Draft clauses: Tax

- 3.1 The key for low-income taxpayers is that administration of their tax affairs should be simple and that the tax system should be easy to understand. It should be clear which tax authority is dealing with their tax and it should be easy for them to contact the tax authority.

² The Scottish Government’s Approach to Taxation, Finance Secretary John Swinney’s statement to the Scottish Parliament, 7 June 2012: <http://www.gov.scot/News/Speeches/taxation07062012>

- 3.2 At paragraph 3.1.3 of the Command Paper it indicates that the changes will not cause double taxation. We think the possibility of claims for double taxation relief being refused in relation to a third tax administration due to the Scottish Rate of Income Tax needs to be explored.
- 3.3 According to paragraph 3.1.4 of the Command Paper a process for approving new taxes proposed by the Scottish Government has been agreed, which will ensure potential double taxation is identified. We point out that it is not only new Scottish taxes that could lead to double taxation, but also new UK taxes. Therefore, this process needs to also consider new taxes proposed by the UK Government.
- 3.4 Scottish taxpayers will face a more complex system than taxpayers in the rest of the UK, since their savings income will be subject to UK income tax rates and their non-savings income will be subject to Scottish income tax rates.³ The main issues will arise if the Scottish Government sets different rates and thresholds for Scottish income tax to those for UK income tax, since Scottish taxpayers will be faced with two sets of rates and thresholds – one for their non-savings income and one for their savings income. This could make it difficult for many Scottish taxpayers to fully understand their tax calculations and liabilities. This complexity will face not just those taxpayers able to afford to pay for a tax adviser, but many low-income taxpayers too, including the vulnerable who may find it particularly difficult to cope with the changes.⁴ It may also mean that many more low-income Scottish taxpayers are forced into self assessment.
- 3.5 This complexity means that it is even more essential that HMRC take steps to make people aware of reliefs and allowances to which they are entitled, such as the starting rate for savings, the personal savings allowance and deductions for certain unreimbursed work-related expenses, and also ensure that the processes for claiming them are simple to use.
- 3.6 Further complexity will be faced by Scottish taxpayers who realise a taxable chargeable gain. Their rate of capital gains tax will be calculated by reference to UK income tax rate limits.
- 3.7 We welcome the fact that HMRC will continue to administer income tax (both UK and Scottish), as at least this means that individuals and employers will only have to deal with one tax authority in respect of their income tax affairs. Nevertheless, clear communications and messaging will be necessary to ensure that Scottish taxpayers do not become confused and try to deal with Revenue Scotland by mistake.

³ Admittedly, perhaps slightly less complex than the position from April 2016 with the Scottish Rate of Income Tax – savings income subject to UK income tax; non-savings income subject to UK income tax and the Scottish Rate of Income Tax.

⁴ This may be less of an issue than originally anticipated, following the announcement in the UK Government's Budget 2015 – there will be a personal savings allowance and deposit takers will stop deducting tax at 20% from savings income with effect from April 2016:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414026/Savings_factographic_final.pdf

- 3.8 We welcome the fact that the UK Government intends to work closely with stakeholders on the detailed implementation of income tax devolution. We would very much welcome the opportunity to participate in any discussions and working groups.

Draft Clauses

- 3.9 It is difficult, even for the experienced tax practitioner, to obtain a clear understanding of the proposed draft clauses in relation to income tax. The complexity is a result of the need to consider the Scotland Act 1998, as amended by the Scotland Act 2012, as amended by the Finance Act 2014, as amended by the proposed draft clauses. The problem is exacerbated by the length of time it takes for legislation to be updated and consolidated on the official legislation.gov.uk website.

4 Draft clauses: Welfare

- 4.1 We recognise that there are advantages of devolution of welfare, for example, it can be easier to meet individual needs and circumstances at a local level. There are also some potential disadvantages, for example, confusion when people move from one area to another, and the difficulty for central government in understanding the impact of national changes on individuals at a local level.⁵
- 4.2 Another difficulty, for us as a tax, tax credits and welfare charity is that it is more difficult for us to analyse the impact of changes on individuals and households. This is already the case with council tax support schemes, for example. This in turn means that it is extremely difficult to ensure transparency of the tax and welfare systems for individuals.
- 4.3 This means that we think joint-working is essential, not only between the Scottish and UK Governments, but also between the Scottish Government and Scottish councils, if the Scottish Government decides to devolve powers to a more local level. This is to ensure transparency for the individual and household, but also to ensure that the government and others can assess accurately the interactions between welfare benefits and between taxes and welfare benefits.
- 4.4 We welcome the recognition of key issues that need to be considered and the examination of transitional provisions.⁶ It is also important that the UK and Scottish Governments are aware that people's circumstances are not static. The transitional provisions must be able to cope not only with someone whose circumstances are the same before and after the

⁵ We refer to our response to the Social Security Advisory Committee's call for evidence on localisation:

http://www.litr.org.uk/Resources/LITRG/Documents/2014/12/141212_LITRG%20response%20SSAC%20localisation%20condoc%20FINAL.pdf

⁶ Paragraphs 4.1.7 ff. of the Command Paper.

transition, but also someone whose circumstances have changed in some way, for example, they have moved to another part of the country, they have had a child or they have moved into or out of employment.

- 4.5 We welcome the establishment of a joint Ministerial Working Group on Welfare. We think this group should also liaise with the various groups concerned with tax issues, to ensure integration with tax changes.
- 4.6 We note that the Scottish Parliament may decide whether devolved and new Scottish benefits are to be delivered by the Department for Work and Pensions (DWP) or by establishing separate Scottish arrangements. We would offer the observation that separate Scottish arrangements could create additional complexity for claimants. Many claimants will also be claiming reserved benefits and/or also be taxpayers. They will therefore be dealing with the DWP and HMRC already. They will also deal with their local Council concerning council tax. All these benefits and taxes interact. A query concerning one benefit may lead to a query concerning another. From this point of view, the fewer organisations the individual has to deal with the better. Whatever decision is taken, we suggest that processes should be put in place so that there is a single port of call for queries, which can effectively deal with any interactions for the claimant/taxpayer behind the scenes, so that they are not put in the position of having to contact multiple governmental organisations.
- 4.7 One of the new powers the Scottish Parliament will have will enable it to create new benefits and to make discretionary payments. In exercising these powers, the Scottish Parliament should have regard to the risk of creating unnecessary and unhelpful complexity for individuals, such that the benefit is too hard to claim or that the complexity outweighs the benefit of claiming.
- 4.8 We welcome the recognition of the need to ensure that both the Scottish and UK schemes work successfully and that they work together coherently *in the best interest of claimants*. We think it would also be helpful to look at tax, National Insurance and welfare holistically. We would welcome the opportunity to be involved in any discussions.

Draft clauses

- 4.9 We have no comments on the draft clauses themselves.

5 Draft clauses: Scottish Tribunals

- 5.1 It is our understanding that in due course the Scottish Tax Tribunals being established by the Revenue Scotland and Tax Powers Act 2014 will be rolled into the Scottish Tribunals system. In addition, the tribunals dealing with reserved tax matters will also be rolled into the Scottish Tribunals system at a later stage. We trust that these changes will effectively take place behind the scenes, such that for the taxpayer the impact will be minimal.

Draft clauses

5.2 We have no comments on the draft clauses themselves.

6 Other comments

- 6.1 We note that according to the Command Paper⁷ work has already started to strengthen the ways in which the UK and Scottish Governments work together. We think that this is no doubt essential in all areas, but we emphasise the importance of working together in the tax and welfare arena. In addition, it is important that the tax and welfare systems integrate well and do not work against one another. The joint-working should extend beyond the high-level Government working, to ensure that it is straightforward for staff from UK and Scottish tax and welfare authorities to liaise.
- 6.2 Low-income taxpayers in Scotland may find themselves having to deal with two tax authorities (HMRC and Revenue Scotland), at least one welfare authority (the DWP) and at least one local council, in order to manage their tax and welfare affairs. Taxes and welfare benefits must not counteract one another, and also the systems must be as transparent as possible for the taxpayer. Ideally, there should be one port of call for queries, to ensure that taxpayers are not passed from pillar to post. This may require liaison between the authorities responsible for taxes and welfare benefits. There should be a protocol for staff to follow, to ensure that they know what to do and how to deal with queries that affect more than one tax or welfare benefit (whether devolved or reserved).
- 6.3 In terms of ensuring that the systems are as transparent as possible for the low-income taxpayer, we recommend that HMRC continue with their Grant in Aid funding programmes. Some funding might usefully be directed towards tax and welfare charities with a view to assisting low-income taxpayers understand the changes. In addition, this type of funding programme might be something that the Scottish Government could explore, whether through Revenue Scotland or another body.

LITRG
31 March 2015

⁷ Page 8, Scotland in the United Kingdom: An enduring settlement