



3 December 2015

Kenny Gibson MSP  
Convenor  
Finance Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

Dear Mr Gibson

Further to the Scottish Finance Committee's call for written evidence regarding implementation of the Scottish Rate of Income Tax (SRIT), we outline below our comments.

The CBI is the UK's leading business organisation, speaking for some 190,000 businesses operating across the UK. CBI members directly employ at least 500,000 people in Scotland, which represents a quarter of the private sector workforce. This includes companies headquartered in Scotland as well as those based in other parts of the UK that have operations and employ people in Scotland.

The CBI submitted a written response to HMRC's request for comments on the technical guidance for Scottish taxpayers in July 2015, which I have enclosed a copy of. Our response requested greater clarity on uncertain and complex cases, especially how SRIT will interact with other elements of the tax system. Whilst responsibility for determining Scottish taxpayer status sits rightly with the individual, employers would have liked to have seen a greater level of communication at an earlier stage to raise awareness.

Following further consultations with CBI members in Scotland and the rest of the UK, HMRC's communication strategy to individuals and employers remains a concern. A more effective communication strategy in which HMRC works in tandem with employers to raise awareness of the changes among employees would aid implementation.

On the question of what the rate for SRIT should be, our members believe that it should be maintained at 10% for the time being. Businesses like a roadmap approach so they have some predictability around future rates allowing them to plan effectively. Frequent changes to the rate add complexity and uncertainty for businesses, so we would advise allowing more time to focus on the implementation of SRIT and the additional income tax powers that are likely to be devolved as a result of the Scotland Bill 2015-16 process.

I would be happy to expand on these points and the other questions that you asked for evidence on during the oral evidence session on 9<sup>th</sup> December.

Yours sincerely

**Rain Newton-Smith**  
Director of Economics



30 July 2015

## **CBI RESPONSE TO SCOTTISH RATE OF INCOME TAX – TECHNICAL GUIDANCE ON SCOTTISH TAXPAYER STATUS**

The CBI welcomes the opportunity to comment on the technical guidance on Scottish taxpayer status published by HMRC on 11 June 2105. The CBI is the UK's leading business organisation, speaking for some 190,000 businesses that together employ around a third of the UK's private sector workforce. We represent businesses of all sizes from all sectors and we have drawn on that expertise from around our membership to address this issue.

Following our consultation with members there are three key points we would like to raise in response to this consultation. Firstly we would like to see greater clarity that the responsibility for determining Scottish taxpayer status sits with individuals, not businesses. Secondly, more examples of a complex nature need to be provided in the guidance to help in uncertain cases. Thirdly, employers would like to see evidence of HMRC's communication strategy in a timely manner to ensure there is enough time to administer this transition and reduce the potential role that employers may be left to play.

### **1. Greater clarity on responsibility for determining Scottish taxpayer status and interactions with other elements of the tax system**

While it may be implicit, we would like to see the guidance explicitly state that it is not the responsibility of the employer or pension provider to determine Scottish taxpayer status. Without specific signposting of whose responsibility it is to determine the status there may be an expectation by employees that their employer is responsible.

The guidance should offer some practical advice on what happens if an individual comes to the conclusion they are a Scottish taxpayer, or where they can find further resources or assistance if they require further clarification. It might also be prudent to remind individuals that it is their responsibility to keep HMRC up to date with their latest correspondence address, not their employer.

The technical guidance provides little by way of reference to how Scottish taxpayer status is likely to interact with other parts of the tax system. These are elements that employers will need awareness and guidance on, for example DTAs or PAYE Settlement Agreements (PSAs). The position of the current technical note on PSAs will render PSAs pointless for large employers with Scottish taxpayers if they are expected to identify and strip them out from the calculation. Guidance on interactions with modified payroll will also be required to determine by whom and how an individual is assessed if there is no tax code. Furthermore guidance from HMRC on how the penalties regime will interact with this would be useful to ensure determining the correct status is taken seriously by the appropriate person.

It may be that some form of additional technical guidance for employers sits in a separate document if the technical guidance currently under consultation is directed towards a specific audience. The technical note published by HMRC in May 2012 offers some more detailed guidance on some of these points so is a good starting point but there is no reference or link within this guidance.

## **2. More examples of a complex nature need to be provided in the guidance to help uncertain cases**

There are a number of scenarios where further, non-straightforward, examples would be helpful. Some of these are detailed below:

- Would lodgings, week-in, week-out on a long term secondment to Scotland constitute a main residence in Scotland?
- If employees stay in a series of different hotels/serviced accommodation over a long period in Scotland, would you aggregate those different hotels/accommodation to constitute a main residence in Scotland?
- Clarification of the treatment for employees who have a main residence in Scotland but who travel quite regularly to rUK and potentially spend more time in the other location (ie rUK) in terms of day count, probably staying in one or more hotels.
- How does having a property in the UK make a difference to the main residence test?
- Would an individual with a main residence in rUK and a temporary furnished residence in Scotland count number of days in/out?
- For international assignees that would ordinarily only be resident in the UK for part of the tax year, could they become Scottish taxpayers for the full year if determined they are Scottish taxpayers?
- The examples (6 and 7) are misleading and suggest oil rigs could be places of residence.
- Clarification when an individual earns an employee share award in one year when considered Scottish taxpayer, but receives it another tax year when they are no longer a Scottish taxpayer?
- What are the payroll implications for a Scottish taxpayer who only notifies HMRC that they are a Scottish taxpayer in month 12? How will the tax be coded in or out?
- Where an employer needs to make a voluntary disclosure for past years, where granular data is not available, what assumptions can the employer make with regards to determining the liability? For example, an employer may wish to make a disclosure for 500 employees where there has been a BIK reporting error. Currently, the employer may be sure that all the affected employees are higher rate tax payers and HMRC may accept this assumption such that a disclosure can be made on this basis. If the Scottish rate of tax is different, the employer will have to spend more time to identify Scottish and non-Scottish tax payers. This will make the process of making voluntary disclosures much more inefficient.
- Guidance on how quickly HMRC will respond to a notification by an individual that they are a Scottish taxpayer, or indeed to remove that status, would be useful to manage expectations.

## **3. Evidence of HMRC's communication strategy in a timely manner**

Given the short period of time until a Scottish rate of income tax could potentially come into effect, there is concern that not enough is being done to raise awareness as to how individuals determine their status. The time frame to administer a potential transition to a Scottish income tax rate is short so the more that can be done to communicate to individuals they are responsible for keeping records up to date, not employers will be valuable. In order to reduce the potential role that employers may be left to play, a drive to ensure HMRC has up to date records of individuals would be a good preparatory step.

If you would like to discuss any of the points raised in this response, please do not hesitate to contact Rhiannon Jones in the CBI's Tax & Fiscal team by email