

## Scottish Rate of Income Tax – Call for Evidence Response by the Chartered Institute of Taxation

### 1 Introduction

- 1.1 This is a response by the Chartered Institute of Taxation (CIOT) to the Finance Committee of the Scottish Parliament's call for evidence, as part of their scrutiny of the Draft Budget 2016-17. We welcome the opportunity to offer our comments on the Scottish Rate of Income Tax (SRIT); we would be pleased to amplify our points orally.
- 1.2 The CIOT is an educational charity concerned with promoting the education and study of the administration and practice of taxation. For more details see the statement about us at section 6 below.
- 1.3 The CIOT does not generally comment on the setting of rates of tax, as these are decisions for politicians. In our view, the setting of the rate for the SRIT should flow from policy decisions as to the aims of the Scottish Government and the Scottish Parliament for the SRIT. Our response focuses on the fourth and final question of the call for evidence concerning publicity surrounding the SRIT.

### 2 Executive Summary

- 2.1 Communications, awareness-raising and publicity are key to ensuring the smooth introduction and operation of the SRIT. It is our impression that awareness of the SRIT, including the issue of Scottish taxpayer status, is low amongst all affected groups: this is particularly an issue for taxpayers. In addition, we refer to the needs of tax advisers and agents in this submission, as they also need publicity, guidance and information designed to assist them. It is important that information aimed at advisers is accurate and comprehensive – this will help them to assist their clients to comply with the legislation, and is in the interests of helping the SRIT to operate effectively.
- 2.2 In terms of publicising the SRIT to employers and taxpayers, it has been necessary for HM Revenue & Customs (HMRC) and the Scottish Government to balance various elements: generating awareness among the general public too early could create significant confusion; the need to raise awareness among advisers and agents, employers and pension providers first, to ensure they are able to cope with the likely queries they will receive from clients, employees, pension savers and pensioners; the fact that for many people, particularly the general public, the first question will concern what the rate of the SRIT is and therefore significant publicity without this information might be criticised or go unheeded; the competing demands

- of other changes to the tax system affecting individuals, employers and pension providers.
- 2.3 We are aware that HMRC are undertaking a significant amount of work in the area of communications surrounding the SRIT; they appear to have a detailed plan and timetable that they are following. HMRC have been engaging with stakeholders and have taken on board comments from interested parties.
- 2.4 Nevertheless, we think more could have been done to publicise the SRIT among the tax agent and tax adviser community and at an earlier stage. In addition, it is arguable that employers and taxpayers would benefit from a gradual increase in publicity, whereas it is clear that for the majority of the general public, there is in effect going to be one 'big bang' of publicity around the time of the announcement by the Scottish Government of its proposed rate for the SRIT.
- 2.5 A key concern we have in relation to implementation of the SRIT is that the decision has been taken by the Scottish Government and HMRC that it is not necessary for details of the SRIT to be shown separately on form P60 – this will significantly reduce transparency for employees and pensioners. As a result, taxpayers will have a much lower understanding of the SRIT, their contributions under it and all its implications.

### **3 What should the rate be for SRIT and why?**

- 3.1 As noted above (paragraph 1.3), the CIOT does not generally comment on the setting of rates of tax. We offer some general thoughts below.
- 3.2 The decision as to what the rate for SRIT should be must take into account the policies of the Scottish Government. There must also be an awareness of the likely direct and indirect impact of either an increase above 10% or reduction below 10% – in terms of the effect on taxpayer behaviour and the impact on tax revenues.
- 3.3 It is also necessary to consider the interaction of income tax (and its rates) with other taxes, tax credits and welfare benefits. By way of example, we note that the Commission on Local Tax Reform,<sup>1</sup> established by the Scottish Government, has been exploring alternative forms of local taxation to Council Tax. The CIOT has contributed to this work in a number of ways, for example by making a written submission<sup>2</sup> and participating in an oral evidence session.<sup>3</sup> In future, it may be necessary for decisions concerning the SRIT to take into account any changes to the system of local taxation in Scotland.
- 3.4 As the Finance Committee will be aware, the announcement of the rate for the SRIT may influence taxpayer behaviour. For example, depending on the rate, it may cause some people to accelerate or defer non-savings income, if that is within their power. If there is significant divergence between the rates of income tax that Scottish taxpayers will pay on non-savings income and those paid by taxpayers resident in the rest of the UK, more mobile individuals may arrange their affairs such that they either are or are not Scottish taxpayers.

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<sup>1</sup> <http://localtaxcommission.scot/>

<sup>2</sup> <http://www.tax.org.uk/tax-policy/public-submissions/2015/future-local-taxation-scotland-22-june-15>

<sup>3</sup> <http://localtaxcommission.scot/tell-us-what-you-think/oral-evidence-sessions/session-9-institutions-and-professional-bodies/>

**4 If SRIT should be above 10%, how should the additional funding be allocated?  
If SRIT should be below 10%, how should the reduction be funded from  
existing expenditure?**

4.1 This is a matter of policy and we offer no comment.

**5 Has the introduction of SRIT been sufficiently well publicised to employers and  
taxpayers?**

5.1 The SRIT will take effect from 6 April 2016. It is not a devolved tax, in that it will be administered by HMRC and its scope will be determined by the UK Parliament; rather the Scottish Parliament has the power to set the income tax rates applicable to Scottish taxpayers on their non-savings income.<sup>4</sup> In this, it differs from the two taxes devolved with effect from 1 April 2015, Scottish Landfill Tax (SLfT) and Land and Buildings Transaction Tax (LBTT). It also differs from these taxes in that the SRIT will directly affect many more taxpayers in Scotland and in particular, many unrepresented taxpayers. It will also affect employers and pension providers, not only in Scotland, but throughout the UK, if they have Scottish taxpayer employees or pensioners. In addition, advisers and agents will need information and guidance, so that they can assist their clients. This means that communications, awareness-raising and publicity are key to ensuring the smooth introduction and operation of the SRIT. Information and guidance for all groups (advisers, employers and taxpayers) should therefore be accurate and comprehensive.

5.2 Although we have not carried out any formal survey, our impression based on comments from our members is that there remains little general awareness of SRIT. We still encounter businesses that assure people that SRIT will not happen as the Scottish authorities have not used their long-held power to vary the rate of income tax. This lack of understanding has been compounded by the work of the Smith Commission following the independence referendum. The recommendations of the Commission have, quite naturally, received a lot of publicity. Since arguably the most significant of their tax recommendations appertains to income tax, the devolution of greater powers over income tax at some point in the future under Smith has tended to mean that many outside the tax industry are simply unaware of the SRIT. Publicity for the introduction of SRIT has in our view yet to start properly and is starting from a low base of understanding – and indeed some built-in misunderstanding that needs to be surmounted.

5.3 We are aware, however, that HMRC are undertaking a significant amount of planning work in the area of communications surrounding the SRIT; they appear to have a detailed plan and timetable that they are following. HMRC have been engaging with stakeholders and have taken on board comments from interested parties. In the paragraphs that follow, we discuss some of this work of which we are aware, and offer comment where we think improvements might be made.

***Timing***

5.4 A key consideration for HMRC in terms of publicity and communications has been timing. Generating awareness among the general public too early, for example prior to 6 April 2015, could create significant confusion, in particular it might make people think the SRIT applies sooner than it does. So, in this regard, it was important to wait until after 6 April 2015, to ensure people understand that it only applies from 6 April 2016.

5.5 For taxpayers and employers the key questions are:

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<sup>4</sup> s. 80C Scotland Act 1998.

- what the rate of the SRIT is;
- whether or not they as individuals are a Scottish taxpayer, or as employers have Scottish taxpayers on their payroll;
- what their responsibilities are as taxpayers or employers;
- what the SRIT means for them and how it affects them in financial terms.

We think that the publicity campaign for SRIT must have answers and guidance available for all these questions. If that is not the case, the risk is that the publicity will raise more questions than it will answer and so be unsuccessful; it is likely to be criticised or go unheeded – and could be a waste of resources.

- 5.6 Before a major publicity campaign can be launched therefore, there needs to be accurate and comprehensive guidance available to enable people to interpret the legislation correctly, for example concerning Scottish taxpayer status. The guidance is currently being created by HMRC, but it requires consultation with stakeholders to ensure it is as helpful as possible. Notwithstanding the need for guidance, it might have been preferable to start a gentle awareness raising campaign, perhaps at the start of the 2015/16 tax year, to at least begin to raise general awareness that a change is coming with effect from 6 April 2016, followed by a major campaign around the time of the announcement of the rate for the SRIT. With the current approach, it is likely that for many, the announcement of the rate for the SRIT will come as a shock.

#### ***Advisers and agents***

- 5.7 Another consideration for HMRC is the need to have a series of campaigns. We think HMRC have adopted a sensible approach in terms of the order of campaigns: firstly advisers and agents, followed by employers and pension providers, and finally taxpayers (the general public).
- 5.8 We are concerned, however, that not enough has been done to publicise the SRIT among advisers and agents or to provide them with sufficient information at an early enough stage. While professional bodies like the CIOT can reach their members, this is only a proportion of advisers and agents. There are many tax professionals that are not members of professional bodies and are therefore more reliant on communications from HMRC.
- 5.9 It is important that advisers and agents receive accurate and comprehensive guidance, to ensure they are able to cope with the likely queries they will receive from clients, whether individual taxpayers or employers and pension providers. Many Scottish taxpayers will be self-employed, employees, pension savers or pensioners. These individuals are as likely (if not more so) to approach their adviser, agent, employer or pension provider if they have a query concerning the SRIT as they are to approach HMRC, whether it concerns the rate, their tax code or their status as a Scottish taxpayer.<sup>5</sup> It is therefore essential that advisers and agents are in a position of knowledge concerning the SRIT, hence the need for careful planning regarding the prioritisation of awareness raising and publicity.
- 5.10 Part of publicising the SRIT involves producing clear guidance for different groups. HMRC published draft technical guidance in June 2015 for comment; this is aimed at HMRC officials, tax professionals and the business community.<sup>6</sup> HMRC organised meetings with stakeholders, including professional bodies like the CIOT, to discuss the

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<sup>5</sup> Scottish PAYE taxpayers will in the first instance be identified by HMRC. Taxpayers within self assessment will have to determine for themselves whether or not they are a Scottish taxpayer and declare this on their self assessment tax return.

<sup>6</sup> <https://www.gov.uk/government/publications/scottish-rate-of-income-tax-technical-guidance-on-scottish-taxpayer-status>

draft technical guidance. Ideally, we would have liked the draft guidance to have been available for comment at an earlier stage, as it still requires significant improvements.<sup>7</sup>

- 5.11 HMRC publish regular bulletins for tax agents. Agent Update 48 (June – July 2015)<sup>8</sup> contained very brief information concerning the SRIT, only making advisers and agents aware of the date of introduction, the key determinants of Scottish taxpayer status and which groups of individual taxpayers it is likely to affect. This is a stark contrast with the significant amount of detail provided in the Employer Bulletin (see paragraph 5.15 below).

### **Employers**

- 5.12 As noted above, we think HMRC have adopted a sensible approach of raising awareness among employers and pension providers before launching publicity for taxpayers. Many Scottish taxpayers will be employees, pension savers or pensioners. These individuals are as likely (if not more so) to approach their employer or pension provider if they have a query concerning the SRIT as they are to approach HMRC, whether it concerns the rate, their tax code or their status as a Scottish taxpayer.<sup>9</sup> It is therefore essential that employers and pension providers are in a position of knowledge concerning the SRIT, hence the need for careful planning regarding the prioritisation of awareness raising and publicity.
- 5.13 It is our understanding that as part of the publicity for SRIT HMRC have been meeting employer groups to explain what SRIT is and what it means for them. There has been good and effective liaison with payroll software firms for some time and our understanding is that the software industry is prepared for the introduction of SRIT. However, no doubt the Finance Committee will want to ask the software industry that question directly. However, other than the Employer Bulletin discussed below, HMRC do not appear to have plans for guidance aimed specifically at employers, which is disappointing.
- 5.14 Part of publicising the SRIT involves producing clear guidance for different groups. HMRC published draft technical guidance in June 2015 for comment; this is aimed at HMRC officials, tax professionals and the business community.<sup>10</sup> Ideally, we would have liked the draft guidance to have been available for comment at an earlier stage. We also think it is not necessarily appropriate to try to target the three separate groups mentioned with one set of guidance – there should be separate guidance specifically aimed at employers and pension providers. HMRC publish regular bulletins for tax agents.
- 5.15 A positive point is that HMRC are making use of their Employer Bulletin to raise awareness among employers about the SRIT and how it affects both employers and employees. The June 2015 issue contains basic information about the SRIT, before going on to discuss several areas of concern for employers in detail.<sup>11</sup> It discusses

<sup>7</sup> CIOT comments on the guidance are available on the CIOT website: [http://www.tax.org.uk/tax-policy/public-submissions/2015/technical\\_guidance\\_scottish\\_taxpayer\\_status](http://www.tax.org.uk/tax-policy/public-submissions/2015/technical_guidance_scottish_taxpayer_status)

<sup>8</sup> The update is available on GOV.UK: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/436585/Agent\\_Update\\_48-v3.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/436585/Agent_Update_48-v3.pdf)

<sup>9</sup> Scottish PAYE taxpayers will in the first instance be identified by HMRC. Taxpayers within self assessment will have to determine for themselves whether or not they are a Scottish taxpayer and declare this on their self assessment tax return.

<sup>10</sup> <https://www.gov.uk/government/publications/scottish-rate-of-income-tax-technical-guidance-on-scottish-taxpayer-status>

<sup>11</sup> The June 2015 issue is available on GOV.UK: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/436169/Employer\\_Bulletin\\_June\\_2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/436169/Employer_Bulletin_June_2015.pdf)

Scottish taxpayer status, and it points out that employers do not have to make any assessments concerning Scottish taxpayer status – it is up to HMRC and individuals. This is an important reassurance, as some employers that have heard about the SRIT are worried that they will have to determine the Scottish taxpayer status of their employees.

### ***Taxpayers***

- 5.16 We are disappointed that HMRC and the Scottish Government have jointly agreed that it is not necessary to show the SRIT separately on form P60 – the form provided to employees showing their gross salary and income tax paid during the tax year.<sup>12</sup> The CIOT had called for details about the SRIT to be shown on the form P60 as a minimum – we have also raised the issue of SRIT being on payslips too.<sup>13</sup> The decision not to mandate the inclusion of details of the SRIT on form P60 will significantly reduce transparency surrounding the SRIT for taxpayers, and will not assist them in understanding what tax they are paying and to whom. While we acknowledge the concerns about cost and complexity for employers and software developers of implementing such a change to form P60 (in our earlier submissions we noted the need for early warning to be given to employers and software developers to enable this change), we call on HMRC and the Scottish Government to reconsider on this point, as transparency is essential to having a workable tax system. We stress though, that this cannot be imposed at short notice; therefore, the decision having been made, we accept that such a requirement could not apply from 6 April 2016.
- 5.17 Individual taxpayers need to understand their own responsibilities and in particular the answers to the following questions: what are they expected to do when they receive a coding notice saying they are a Scottish taxpayer? Or if they think they are a Scottish taxpayer and do not receive such a notice? It is essential that guidance and products for taxpayers provide answers on these issues.
- 5.18 HMRC have indicated that they are working on a range of guidance and products for the general public (unrepresented taxpayers) and specialist guidance for services personnel (jointly with the Ministry of Defence). This guidance will not be available until late autumn. We understand that this is intended to coincide roughly with the announcement of the Scottish Government's proposed rate for SRIT. We understand the rationale behind this timing, but reiterate that a general awareness raising campaign at an earlier stage would have been helpful.

## **6 The Chartered Institute of Taxation**

- 6.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it –

<sup>12</sup> See Employer Bulletin 54 (June 2015):  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/436169/Employer\\_Bulletin\\_June\\_2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/436169/Employer_Bulletin_June_2015.pdf)

<sup>13</sup> Our key concern has always been to increase transparency, acceptance and understanding of the SRIT, balanced with the need for any requirement to increase disclosure requirements (particularly on payslips) to be made in plenty of time to allow software to be developed. See previous submissions on the SRIT on the CIOT website:  
[http://www.tax.org.uk/Resources/CIOT/Documents/2012/03/120118\\_SB\\_HoL\\_CIoT.pdf](http://www.tax.org.uk/Resources/CIOT/Documents/2012/03/120118_SB_HoL_CIoT.pdf) and  
<http://www.tax.org.uk/Resources/CIOT/Documents/2011/02/110221%20Scotland%20Bill%20CIOT%20comments.pdf>

taxpayers, their advisers and the authorities. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

- 6.2 The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.
- 6.3 The CIOT's 17,000 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

The Chartered Institute of Taxation  
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