Devolved air passenger duty

Indirect Tax

01 October 2015

CIOT responds to the recent HMRC consultation on air passenger duty

Background

Air passenger duty (APD) is being devolved to Scotland and, if it agrees, Wales. It has already been partly devolved to Northern Ireland. One of the consequences of devolution is that some English authorities have become concerned that they might be adversely affected if a devolved administration sets a lower rate of APD for an airport close to one in England that is subject to a higher one.

The Treasury published a consultation document to which we have responded.

Our main submissions

The CIOT's main submissions concern the operation of the tax, it being for the government to consider what powers should be devolved. We note that devolution will result in tax competition between different parts of the UK. Thus, in order to create a level playing field, the powers given to an airport authority operating from England would need to be similar to those given to the devolved administrations.

We stressed the need for legal certainty and pointed out, as an example, the problems encountered with the aggregates levy when we saw protracted litigation on exemption from it applied to Northern Ireland only. This appears to have been resolved but we noted the importance of involving all possible stakeholders to ensure that any potential disputes as to what can be done are resolved.

We commented on the problems likely to arise from the difficulties that operators might have with having to account for APD at different rates to several different tax authorities and the consequences of that on compliance costs, such as those arising from the loss of economies of scale. We also mentioned the need to have a system

of dispute resolution, although APD has not been subject to many disputes yet.

There is nothing setting out how APD will be devolved to Scotland. Thus it may well be that APD on a long-haul flight to a destination not including an airport in England may be subject to any Scottish duty. But what happens with a flight from Scotland to a long-haul destination that connects in England? Also, how will the amount to be reduced from council tax grants in exchange for giving them the right to tax be determined? It is doubtful whether a local authority or regional body would want to accept the burden if a consequence was that they would bear a loss from setting a lower rate to offset competition from elsewhere.

There are also some non-tax issues. For example:

- Does the government want to encourage more car travel to travel to airports to save APD?
- Will there not be competition between airports within England: for example, Bristol lowers rates to compete with Cardiff, and Bournemouth and Exeter then has to consider its position vis-à-vis Bristol.
- Finally, will differences in APD rates between airports benefit airlines which can choose which airport to use based on lower rates of APD?

The details of the CIOT submission can be found on the CIOT website.