Scottish tax management proposals

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Wherever they work, CIOT & ATT members will be aware that Scotland is gaining powers over some of its own taxes. We have been prominent in our engagement with the UK and Scottish governments on the evolution of the various proposals and we have endeavoured to keep members informed. Although it may seem a while until the arrival of the first new Scottish taxes in 2015, as the saying goes; 'It's closer than you think.'

In December 2012, the Scottish government published a lengthy consultation document on ideas for a Scottish Tax Management Act. Although this would initially only govern Land and Buildings Transaction Tax (the SDLT replacement) and the local Landfill Tax, the proposals sensibly aim to lay down a comprehensive framework to govern Scottish taxes generally.

As we have done with previous Scottish proposals, we surveyed members on the main issues: as you will have seen, we sent the survey to all members as we wanted to give those working outside Scotland but with interests in the country a chance to respond. The survey attracted a creditable 115 responses and we are very grateful to those who took the time to contribute their views. The 38 questions in the condoc covered a wide range of issues. Some of our main points:

Revenue Scotland (RS) – The tax authority should be a non-Ministerial department, as is HMRC; it should be run by a Board with executives and non-executives and be accountable to Parliament.

Engagement with agents – Unsurprisingly, we were clear that RS must engage with agents and taxpayers over changes to the tax system, using proper consultation, but also considering workshops/forums and the like over major issues.

Powers and obligations – A strong plea for a Taxpayers' Charter, setting out rights and obligations on both sides; generally members wanted a similar power system to HMRC's, though there is scope for some changes (eg do not automatically

require tax to be paid before permitting an appeal).

Ensuring compliance – A key principle is that RS must allow agents to deal with them on behalf of clients; and there must be proper systems in place for email, agent dedicated line, etc.

Controlling avoidance – We accept the need for anti-avoidance measures, of course, but counsel against over-complicating matters. There is a good deal of support for purposive drafting of provisions, supported by necessarily detailed anti-avoidance measures; there was cautious support for this to be topped off by a UK-style GAAR, but not a wide general anti-avoidance measure.

Managing disputes – A review procedure, then mediation was generally supported, though with many saying that the taxpayer should not have to bear the full costs of mediation. If a dispute has to go to tribunal, members see no reason to change the current tax tribunal system.
Our full submission can be found at **www.tinyurl.com/c9sj7bp**. We included a plea made by a few members under 'any other points': that RS should use the term 'taxpayers', not 'customers'!

Will writing – a geographic clarification
While readers' eyes are on Scotland, we should point out that Heather Brehcist's article in April's *Technical Newsdesk* on 'Will writing, estate administration and probate services' omitted an important geographical point. The Legal Services Board's report and recommendations strictly only apply to England and Wales, though their conclusions may have resonances in Scotland and Northern Ireland as well. As the LSB response says (in relation to will writing):

'We note that the territorial extent of the Act is England and Wales. Therefore, the definitions of the reserved activities can only extend to England and Wales. A will written within England and Wales that could subsequently be proved by a Grant of Probate within this jurisdiction should be regulated under our proposals. With regards to competence issues in respect of willwriters and foreign law, all authorised persons should ensure that they only undertake work that is within their competence. The regulatory arrangements of the approved regulators should reflect that requirement.'