Scotland update – call for evidence on Scotland's relationship with the EU

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The CIOT responded to a call for evidence issued by the European and External Relations Committee of the Scottish Parliament, called to support its inquiry into the implications for Scotland's relationship with the EU after the referendum on 23 June.

The European and External Relations Committee of the Scottish Parliament issued a call for written evidence (tinyurl.com/j7nkvhm) at the start of August to support its inquiry into the implications for Scotland's relationship with the EU as a result of June's referendum.

The CIOT submitted a response focusing on the tax implications. We note that these are detailed and complex and, due to time and space constraints, we highlight key issues. The response takes as its baseline the position if no agreement is reached between the UK and the EU under Article 50 of the Treaty on European Union (TEU).

The response points out that tax policy options may be given effect unilaterally by the UK or Scottish parliaments or by treaty with other states or international organisations or through various combinations. While leaving the EU will in theory provide many options for unilateral tax changes favouring UK or Scottish taxpayers, in practice these may be restricted by international considerations.

The response looks at the different ways in which EU law now affects taxation in the UK and Scotland, highlighting the state aid rules, the four fundamental freedoms (movement of goods, movement for workers, right of establishment and to provide services, and movement of capital), EU directives on direct tax, the VAT directives and the EU arbitration convention.

Several EU directives affect direct taxes in the UK, including the Parent-Subsidiary Directive and the Interest and Royalties Directive. These serve to reduce or eliminate withholding taxes on distributions, and interest and royalties, respectively. UK companies will no longer benefit from the directives on leaving the EU, potentially affecting the effective tax rate paid by UK companies.

We also consider a number of practical implications for taxpayers, particularly in the areas of social security, VAT and customs duties. Currently, cross-border workers within the EU and their employers benefit from the regulation on the co-ordination of social security systems, which prevents double contributions being paid, by requiring only one member state's contributory regime to apply. This will no longer apply to UK nationals working in the EU and EU nationals working in the UK. The UK has only a limited number of bilateral social security treaties, which are uneven in their scope and effect, so withdrawal from the EU will increase the exposure to double contributions of UK workers who spend time working in the remaining member states.

For VAT and customs duties, we note that, once the UK leaves the EU, it would also leave the EU customs union. As a result, not only would goods from the EU into the UK be classed as imports (rather than acquisitions) and be subject to UK customs duties and import VAT, but goods from the UK into the EU would be classed as exports (rather than dispatches) and subject to EU customs duties and import VAT. Although there may be a reduction in some areas of compliance (no need to complete EU intrastat returns or EC sales lists), in other areas UK businesses are likely to face increased compliance, such as import and export declarations and procedures.

Subject to any changes in the relationship between Scotland and the rest of the UK, the tax implications for Scotland will be much the same as those for the rest of the UK. It should be noted that there are no immediate changes. There is a period of negotiation, which will start when once the UK has notified the EU under Article 50 TEU. Before that time, EU law will continue to apply to the UK. The EU treaties will cease to apply to the UK when the withdrawal agreement enters into force or two years after the notification under Article 50, unless an extension is agreed.

Read the CIOT response on the CIOT website.