

Devolved Taxes Legislation Working Group: Interim Report

General Features

29 April 2020

The CIOT and LITRG made a written submission to a consultation on the Interim Report published by the Devolved Taxes Legislation Working Group.

The Scottish government and the Scottish Parliament jointly set up the Devolved Taxes Legislation Working Group in March 2019. Various organisations, including the CIOT, were invited to nominate a representative to attend meetings of the working group.

The working group has been taking forward some of the recommendations made by the Budget Process Review Group (set up by the Finance and Constitution Committee of the Scottish Parliament) in its June 2017 report. In particular, it has been exploring alternative legislative processes for devolved taxes legislation and the need for a Finance Bill.

The working group published an interim report in February 2020 for consultation. This set out the challenges and opportunities of a few alternative options for devolved tax legislation, such as a Finance Bill, a Tax Bill and secondary legislation powers. It should be noted that the intention is for any alternative process to cover only the fully devolved taxes, that is, currently, Land and Buildings Transaction Tax and Scottish Landfill Tax.

We used our response to suggest that there may be a case for extending the remit of any suggested alternative legislative process, such that it is able to cover all tax powers of the Scottish Parliament, for example, non-domestic rates.

As noted in the interim report itself, the Scottish Parliament has new powers and responsibilities over taxation as a result of the Scotland Acts 2012 and 2016. It is now no longer a parliament that deals almost exclusively with spending, but one

that must have the capacity and ability to deal with both revenue-raising and spending. Yet, the current arrangement of the parliamentary timetable means that, with capacity to consider only 14 to 16 Government Bills per annum, (with one slot guaranteed for the Budget Bill), changes to existing tax legislation face stiff competition for a Bill slot.

In making our case for the need for an alternative legislative process for tax legislation, we argue that tax is distinctive from other policy areas. While Scotland still receives a significant proportion of its funding from the Block Grant, taxes provide an increasing share of Scotland's funding resources. Moreover, it places obligations on citizens in a way that other policy areas do not, and requires a more detailed and ongoing understanding of the law than many other areas of policy. It is particularly important, therefore, that there is an avenue available to make changes effectively and efficiently, to ensure the credibility of the tax system in Scotland.

We note that the current legislative procedures are inadequate for dealing with devolved taxes as the current procedures do not offer a sufficient balance between the competing needs of speed, scrutiny and responsiveness when making changes to existing tax legislation. This is of concern given that changes are often needed, for example, in the light of operational experience, to ensure the legislation works as intended and to respond to changes in the wider environment.

Our response favours either a Finance Bill or a Tax Bill as having the potential to address the tensions set out in the interim report. In either case, a guaranteed Bill slot in the annual parliamentary timetable would be essential.

The submission is available on the CIOT website: www.tax.org.uk/ref644.