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Report To:	Policy and Resources Committee	Date:	26 March 2013
Report By:	Chief Financial Officer	Report No:	FIN/23/13/AP/JB
Contact Officer:	Jan Buchanan	Contact No:	01475 712223
Subject:	Scottish Government Consultation: <i>A Consultation on Tax Management</i>		

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## 1.0 PURPOSE

- 1.1 The purpose of this report is to seek approval from the Policy and Resources Committee of the response on behalf of Inverclyde Council in respect of the **Scottish Government Consultation on Tax Management**.

## 2.0 SUMMARY

- 2.1 The Scotland Act 2012 – which received Royal Assent on 1 May 2012 – gives increased taxation powers to the Scottish Parliament. From April 2015, the Scottish Parliament will have powers to set taxes on land transactions and on disposals to landfill. Then from April 2016, the Scottish Parliament will be asked to set a Scottish rate of income tax, which unlike the land transactions and landfill taxes, will interact with UK income tax.
- 2.2 The Scottish Government announced last year that it was to set up its own tax agency **Revenue Scotland** to collect and administer taxes levied by the Scottish Parliament. The new Scottish tax authority will be set up later this year and will be given a formal basis by 2015 “in line with international best practice” and will be “operationally independent and its governance enshrined in legislation”.
- 2.3 A consultation document was published by the Scottish Government in December last year to seek views on how the new tax authority should be structured and what its powers and duties should be. The consultation will run for four months until 12 April 2013. A response on behalf of the Council is offered for the consideration of CMT and is attached to this report.
- 2.4 The CMT advise that responding to all the consultations issued by the Government is not feasible given the reduction in management capacity but in this case it is believed that the creation of Revenues Scotland is such a fundamentally important issue that a response should be considered.
- 2.5 The CIPFA Scottish Directors of Finance Section has nominated the Council's Chief Financial Officer as its representative to sit on Revenue Scotland's Tax Administration Programme Board.

### **3.0 RECOMMENDATION**

3.1 It is recommended that Policy and Resources Committee:

- a) approves the consultation response to the Scottish Government.
- b) notes the nomination of the Chief Financial Officer to sit on the Revenue Scotland Administration Programme Board.
- c) notes that reports will be brought back to Committee as matters become clearer as proposals develop.
- d) notes that the capacity within the current management structure to deal with consultations is limited.

Alan Puckrin  
Chief Financial Officer

## 4.0 BACKGROUND

4.1 The Scotland Act 2012 introduced changes recommended by the Calman Commission, the body set up in 2007 to review Scottish devolution ten years on. Under the Act:

a) Stamp Duty (SDLT) and Landfill Tax will be devolved to the Scottish Parliament from 2015;

b) From 2016 the Scottish Parliament will be obliged to set a Scottish Rate of Income Tax (SRIT); and

c) The Scottish Parliament has the power to introduce new taxes.

One-off reductions in the block grant that the Scottish Government receives from Westminster will be made to reflect the devolution of SDLT and Landfill Tax.

4.2 The Tax Management Bill consultation is the last of three consultations seeking views on the Scottish Government's proposals for establishing a devolved tax system from 2015 onwards. Central to the consultation is the creation of Revenue Scotland to administer the Land and Buildings Transaction Tax (LBTT), the proposed Landfill Tax and the framework of powers and responsibilities needed to ensure efficient collection of the devolved taxes and any future taxes brought under the control of the Scottish Parliament.

4.3 The Scottish taxes are to be collected in Scotland by a new Scottish tax authority Revenue Scotland, working with the Registers of Scotland in relation to LBTT and with the Scottish Environmental Protection Agency (SEPA) in relation to the Scottish Landfill Tax. Revenue Scotland will arguably be the single most powerful non-governmental body the Scottish Parliament will ever establish. Arrangements to set up the new Scottish tax authority are now underway, and Eleanor Emberson (formerly the chief executive of the Scottish Court Service) was appointed as the new Head of Revenue Scotland in October 2012.

4.4 From 6 April 2016, Scottish taxpayers may pay a different rate of income tax than taxpayers in the rest of the UK. Under s26 of the Scotland Act, the UK income tax rates applying to Scottish taxpayers will be reduced by 10p, and the Scottish Parliament will set a Scottish Rate of Income Tax (SRIT), which will be added to the reduced UK rate. The table below illustrates the results for a range of different levels of SRITs. The Scottish Parliament only has responsibility for setting the SRIT, HM Revenue and Customs (HMRC) will administer and collect the SRIT. Revenue Scotland will not collect Council Tax or Non-Domestic Rates, which will continue to be administered by local authorities.

Income Tax Rates under the Scotland Act 2012				
	Scottish Taxpayers			UK Taxpayers
SRIT set by Scottish Parliament	9%	10%	11%	-
Effective rate of tax payable:				
Basic rate taxpayers	19%	20%	21%	20%
Higher rate taxpayers	39%	40%	41%	40%
Additional rate taxpayers	49%	50%	51%	50%

4.5 The overarching arrangements for the Scottish tax system will be set out in a Scottish Taxes Management Act (TMA) which is to be introduced to the Scottish Parliament later this year following a period of consultation.

4.6 Revenue Scotland will be recruiting Board members in the Autumn. The governance arrangements will seek to ensure that all skills and experience are captured. Revenue Scotland has acknowledged the importance of local government and has extended an invitation to the Scottish CIPFA Directors of Finance Section for its representative to join the Tax Administration Programme Board. Our Chief Financial Officer has been nominated.

## 5.0 CONSULTATION DOCUMENT

- 5.1 The Scottish Government has engaged with bodies representing tax advisers and other professional groupings in drawing up the proposals in the consultation paper. The consultation focuses on the arrangements to support tax management, asking questions about the governance, structure and powers of Revenue Scotland, ensuring tax compliance and tackling tax avoidance, resolving tax disputes, treatment of taxpayer information and accelerated tax changes. Alongside this, Revenue Scotland will establish a collaborative group involving a wide representation from tax professionals and others with an interest in working together to shape the operation of the tax system in Scotland.
- 5.2 The consultation sets out a framework of taxpayer obligations and safeguards to protect their interests, and proposals for ways for taxpayers to challenge disputes. The consultation also proposes a Scottish *General Anti-Avoidance Rule* (GAAR) and asks for views on how it should be structured for maximum effect, and a *Disclosure of Tax Avoidance Schemes* rule. The UK Government is currently consulting on a UK GAAR; no doubt the Scottish GAAR will be informed by these discussions. While we welcome the proposals for the GAAR we expect that they will be supplemented by Targeted Anti Avoidance Rules (TAAR).
- 5.3 The consultation asks 37 questions, plus a final catch-all any other comments question, split into nine sections as follows:
- *Revenue Scotland* - 5 questions concerning the proposed functions and duties of the new Scottish tax authority, how it should be governed and led, and how it should communicate with taxpayers, their agents and tax professionals.
  - *Powers and Obligations* – 5 questions concerning the proposed tax collection powers and taxpayers' obligations including a "Taxpayer's Charter".
  - *Ensuring Compliance* - 6 questions concerning proposals to ensure that taxpayers and their agents comply fully with their obligations and the types of sanctions and their possible uses.
  - *Tackling Tax Avoidance* – 7 questions about the measures proposed to tackle tax avoidance and the inclusion of a GAAR in the Scottish TMA.
  - *Resolving Tax Disputes* – 7 questions on the proposals for the avoidance of disputes and the choice of dispute resolution processes Revenue Scotland might adopt.
  - *Treatment of Taxpayer Information* – 4 questions about the confidentiality of taxpayer's information, the sharing of information with other public bodies and circumstances in which public interest could apply.
  - *Accelerated Tax Changes* – 1 question about the Scottish equivalent of the existing UK arrangements to enable the swift introduction of tax changes with subsequent Parliamentary scrutiny.
  - *Draft Equalities Impact Assessment and Business Regulatory Impact Assessment* – 1 question on each of these draft assessments on the impact of the introduction of the proposed Tax Management Bill upon sectors and groups.
- 5.4 The response to this consultation has been drafted from a standpoint of democratic oversight and the Council's duty to act in the public interest and has accordingly provided responses to the first two sections. There are also responses to questions in other sections based on the Councils experience of the local taxes it administers and taxpayers' rights.

5.5 Officers have also offered observations on what we regard as some other key issues for tax devolution and Revenue Scotland:

- The relatively short timescale in which these developments are operating and the complexity of drawing up a tax code.
- The need for the tax system to be sensibly designed from the outset so that its operations are scalable and future proofed.
- The opportunity to recruit new resources into Revenue Scotland to the existing HMRC teams for fresh insights and creativity particularly in the areas of legislation and policy design and building systems and processes.
- The challenge of the separation of data within HMRC for Revenue Scotland's purposes and tax system multi-tasking while changing a widespread but essential service.
- The impact on the Scottish budget of the reduction of block grant for devolved taxes and amount by which the tax revenues generated in Scotland exceed or fall short of the block grant adjustment.
- The challenge of containing the costs of change-over and the ongoing administration of the devolved taxes. HMRC anticipates the costs of administering the SRIT to be set-up costs of £45 million and an annual cost of £4.2 million.
- The need for Scottish income taxpayers to gain a proper understanding of whether or not they are "Scottish taxpayers". This will broadly concern their principal place of residence, but may not always be readily apparent.
- The narrow current income tax base, the significant proportion of income tax raised from high earners and their mobility.
- The need for data about taxpayers and social and behavioural aspects that are specific to Scotland to better inform a proper understanding of how tax income is raised in Scotland and from what.
- The challenge for taxpayers of legacy taxes that are being assessed, collected and pursued and with this the burden of two tax authorities for the taxpayer.
- The challenge for Revenue Scotland to provide an easy and convenient experience for the taxpayer e.g. should contact centres be based in Scotland or continue to be throughout the UK as at present.
- The need for social justice to be evident in the devolved tax system. The tax system to be aligned and integrated with the country's wider and distinct legal and constitutional aspects. Strong anti-avoidance measures are essential to make sure that tax is collected.
- The choice of dispute resolution processes Revenue Scotland might adopt, such as independent internal reviews, the use of specialist dispute resolution or settlement teams to resolve these will be vital to the quality of service and convenience to taxpayers.
- The need for an ongoing relationship between Revenue Scotland, HMRC and other public bodies for the sharing of taxpayer data. Without appropriate preparation and systems and agreements in place, a window of opportunity may exist for those willing to exploit it.

## 6.0 IMPLICATIONS

### 6.1 Legal

The Head of Legal and Democratic Services has contributed to the responses on the section about treatment of taxpayer information. Most of the Council's tax information is publically available at present and the proposed provisions for Freedom of Information will have little impact upon the Council.

### 6.2 Financial

There is no intended direct financial impact on the Council of these major changes and if there were any indirect financial impact, due to the indicative timeline it is unlikely to impact on the current budget period 2013-16. The position will be regularly reviewed and any changes will be reported.

The Scottish Government has currently no information available in its draft Partial Business and Regulatory Impact Assessment to suggest that costs to the taxpayers would be higher or lower than at present for the taxpayer and business taxpayer.

The SRIT will apply to all Scottish taxpayers regardless of where their employer is based, so all UK employers will need to be aware of the SRIT, and payroll and pension payment systems are expected to be able to apply the different rates of tax for Scottish and UK taxpayers.

A number of benefits, such as housing benefits, are currently paid according to "income after tax". The benefits system will remain with the DWP and should there be a variation in the SRIT the interaction between systems would require to be resolved so that there was no unintended detriment to claimants.

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement from	Other Comments
			None	-	None

### 6.3 Human Resources

None.

### 6.4 Equalities

The Scottish Government has no information to suggest that its proposals will have a differential impact across the "protected characteristics" of age; disability; gender reassignment; pregnancy and maternity; race, religion and belief; sex and sexual orientation.

## 7.0 CONSULTATIONS

7.1 None.

## 8.0 LIST OF BACKGROUND PAPERS

8.1 None.

## Appendix 1      Respondent Information Form

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

### 1. Name/Organisation

#### Organisation Name

Inverclyde Council

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐      *Please tick as appropriate*

#### Surname

Puckrin

#### Forename

Alan

### 2. Postal Address

Municipal Buildings

Clyde Square

GREENOCK

PA15 1LX

01475-712259

alan.puckrin@inverclyde.gov.uk

### 3. Permissions - I am responding as...

Individual

☐

*Please tick as*

Group/Organisation

☒

- (a) Do you agree to your response being made available to the public (in Scottish Government library)
- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis  
**Please tick ONE of the following boxes**  
Yes, make my response, name and address all available ☐

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library)  
Are you content for your **response** to be made available?

*Please tick as appropriate*

☒ Yes ☐ No

Yes, make my response available, but not my name and address ☐

Yes, make my response and name available, but not my address ☐

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

***Please tick as appropriate***

☒ **Yes**

☐ **No**



Chapter 2: Revenue Scotland

**1 What are your views on the proposed function and duties of Revenue Scotland?**

**Inverclyde Council response:**

We have responded to this consultation particularly from a standpoint of democratic oversight and the council's duty to act in the public interest. We have accordingly provided responses to Chapters 2 and 3. We have also provided responses to some questions in other chapters based on our experience of the local taxes we administer and taxpayers' rights. For ease of reference, we have included all the questions in our response, including those to which we have offered no comment.

Whether a country has two taxes or 22, they cannot be operated in isolation but only as part of a tax system and with tax authority talking overall responsibility. The proposed principal function of Revenue Scotland (*the management of devolved taxes*) and its core set of duties (*provision of information to taxpayers and their agents; tax disputes resolution; identification and pursuit of fraud; working with and reporting to the Scottish Parliament including a corporate plan; and the liaison with HMRC and fulfilment of EU and international obligations*) outlined in the consultation document seem reasonable.

We note particularly the duty to collect "*the highest net revenue practicable*" while "*exercising appropriate discretion*". We interpret *net revenue* to mean all revenues due after all reliefs and remissions been taken into account and the cost of collection. We also interpret this to mean that social justice should be evident in the tax system, a theme we return to later in our submission.

We pose the question that if Revenue Scotland is to be charged with operating "*efficiently and effectively*", should this not be accompanied by a set of benchmark measures? Examples might be low costs, processing times for forms and queries or quality and accuracy of assessments.

It is our view that the Scottish Government needs to take urgent action to prepare for the tax system for its incoming devolved powers and the establishment of its own tax authority. This is an area which needs to be addressed promptly given the relatively short timescale on which these developments are operating and the complexity of drawing up a tax code. Irrespective of independence, devolved powers on income tax, stamp duty and landfill tax, and the creation of new taxes are already in place.

Revenue Scotland will be set up and given a formal basis by 2015 under the outline timetable in the consultation. Control of ten percentage points of the existing income tax rate will pass from Westminster to Holyrood in 2016 for Scots, but without control of any other tax matters such as personal allowances changing. The new Scottish Rate of Income Tax (SRIT) will remain part of the UK income tax system and continue to be administered by HM Revenue and Customs (HMRC).

One of the greatest practical challenges may be the separation of data within HMRC itself for Revenue Scotland's purposes. And tax system multi-tasking will in itself be a challenge, given the implementation issues in changing any widespread but essential system. This will require careful management to avoid time and cost overruns. And should the Scottish Parliament have a firm long-term aspiration to fully establish Revenue Scotland so that it can take over from HMRC, the tax system needs to be sensibly designed from the outset so that its operations are scalable and future proofed.

We note that the UK Government will reduce the block grant paid to Scotland to offset the expected income from the two devolved taxes and from SRIT. The expectation in the consultation is that the effect on the Scottish budget will be neutral in the first year of operation and that this base year will then establish the quantum of the block grant adjustment for future years. What is not known yet of course is the effect of cyclical fluctuations or volatility in income tax revenues and whether tax revenue in Scotland will exceed or fall short of the amount of the block grant adjustment and by how much.

Under the Scotland Act, the Scottish Government will receive half of the tax revenues at the basic rate and just a quarter of revenues from the higher rate. This may mean that the Scottish budget will receive a declining share of total Scottish income tax receipts. The Scottish Government would receive a reduced amount of the additional revenues from natural "fiscal drag" as people become richer through time and move into the higher tax bands. This may be mitigated in the short term in a period of fiscal consolidation when public spending is being cut significantly and if income tax revenues were to remain stable.

We will be monitoring closely developments in this area to assess the potential impact upon local authorities' share of the Scottish budget.

**2     *What are your views on the proposal to establish Revenue Scotland as a non-ministerial department, part of the Scottish Administration and accountable to the Scottish Parliament?***

**Inverclyde Council response:**

Revenue Scotland will arguably be the single most powerful non-governmental body the Scottish Parliament will ever establish. The recommendation in the consultation document to establish Revenue Scotland as a non-ministerial department, part of the Scottish administration and accountable to the Scottish Parliament would seem reasonable.

Under the Scotland Act 2012, the power to change the income tax rate belongs to the Scottish Parliament, but the tax system administrative burden will remain with HMRC, with a strategic role for Revenue Scotland. The Institute of Chartered Accountants of Scotland (ICAS) published a paper *Scotland's Tax Future: The Practicalities of Tax Devolution* in November last year, a month ahead of the issue of this consultation document. The ICAS paper warns "If anyone believes tax devolution is or should be simple, a read at the official summary of the attempts so far to design an operational system for the Scottish Rate of Income Tax might be highly informative. These provisions [for SRIT] give rise to a number of implementation issues, attempts

to resolve which have benefited already from implementation group working parties, yet despite extensive efforts, leave a number of matters still to be determined."

ICAS concludes "Scottish taxpayers should expect to pay for the cost of changeover. It is not yet clear that this is yet understood by taxpayers - who would be expected to pay for it." The costs of administering the SRIT are anticipated by HMRC to be set-up costs of £45 million and an annual cost of £4.2 million. We will be monitoring closely developments in this area to assess the potential impact upon our local communities, economy and employers and upon the workforce of the council.

**3      *What are your views on the governance options for Revenue Scotland, and on how people should be selected for appointment to the posts of Chief Executive and the Board?***

**Inverclyde Council response:**

We agree that the Board should be made up entirely of non-executive members to which the Chief Executive would report. The Board with the Chair in the lead would be held accountable for the performance of Revenue Scotland. We consider this the most appropriate model as it is closest to the standard model for Scottish public bodies.

Board members should be appointed in line with the Nolan principles. The recruitment and appointment of the senior management team (including the Chief Executive) should be through fair and open competition regulated by the Scottish Parliament.

With its new powers under the Scotland Act, the Scottish Government will have devolved tax and borrowing powers but will still be reliant upon the block grant from Westminster. Local government in Scotland has considerable experience of such powers and the local/central government relationship. We consider that finance professionals in local government have much to offer and we welcome the invitation by Revenue Scotland to the Scottish Directors of Finance section of the Chartered Institute of Public Finance and Accountancy (CIPFA) for a director of finance to join the Tax Administration Programme Board.

We consider it essential that Revenue Scotland uses all expertise in its overall governance and that the Board reflects Scottish society. This would of course include tax professionals but should also in our view embrace a broad range of organisations in the same manner as the Scottish Government's Tax Consultation Forum.

It is inevitable that the staff and senior executives of Revenue Scotland will be recruited largely from the current civil service personnel but there is the opportunity we believe to bring in new resources to these teams for fresh insights and creativity particularly in the areas of legislation and policy design, and building systems and process.

**4      *When, how and on what subjects should Revenue Scotland engage with taxpayers, their agents and tax professionals?***



**Inverclyde Council response:**

HMRC estimates that there are just over 2.6 million income taxpayers in Scotland out of population of around 6 million. Scottish taxpayers will need to be indentified, particularly in view of the narrow current income tax base and the proportion of taxes raised from high earners. Income tax of more than £2.1 bn was paid by the top 1% of Scottish taxpayers in 2009-2010, on a par with the revenues generated from other forms of taxation in Scotland such as council tax and corporation tax. In our opinion this warrants the focusing of more resources on the collection of income tax, particularly of high earners.

One of the main impacts on Scottish income taxpayers will be to gain a proper understanding of whether or not they are "Scottish taxpayers". This will broadly concern their principal place of residence. Although this may not have much impact locally, except for a small number of key personnel in multinational companies, there may be wider issues for councils such as Dumfries and Galloway Council. And there may be an impact upon the public sector pension providers such as the SPPA and LGPS who may need to make expensive and significant changes to their pension payment systems to cope with the potential for different income tax rates affecting their pensioner base.

An implementation of tax devolution requires data not just on current tax revenues but also about our taxpayers in Scotland and social and behavioural aspects that are specific to Scotland. This will better inform a proper understanding of how tax income is raised in Scotland and from what. In our opinion, data on tax revenues allied to an understanding of taxpayers is the essential foundation upon which a robust tax system is built. This basic information is necessary to inform the assessment, collection and pursuit of taxes and to prepare forecasts of future tax revenues for budget setting purposes and so on. This will require a considerable amount of data. Tax records may go back a number of years. A massive amount of data collection and number crunching will be involved.

There will still be issues of legacy UK taxes that are being assessed, collected and pursued and with this the burden of two tax authorities for the taxpayer.

**5      *How and in what form should Revenue Scotland provide information to, and communicate with, taxpayers and their agents?***

**Inverclyde Council response:**

The consultation document places an emphasis on public engagement and the provision of information for taxpayers and their appointed agents. We pose the question of whether Revenue Scotland should make an explicit and clear statement about customer contact arrangements for taxpayers. For example, should the contact centres be based in Scotland or continue to be throughout the UK as at present? Should Scottish taxpayers expect the opportunity of a named tax official to assist with their enquiries? And at a named location with an opportunity to attend in person? Or will this be available only to high earners?

The devolved tax powers will offer an excellent opportunity to extend access

whether online, through post offices, city centres or call centres. We believe it would be worthwhile to consider the arrangements that local authorities have in place for council tax and rates and to ensure consistency for tax across Scotland.

Revenue Scotland will require to be resourced (at least in the early days of a changeover) so that it can deal with a vast amount of correspondence and for a significant public information campaign. This raises the question of what media to employ to engage with the public and with the taxpayer. We note that the consultation document raises the interesting possibility of communication by the use of text messaging and social media. We pose the question of whether as part of embracing the new technology Revenue Scotland would encourage e-mail correspondence (an approach not currently permitted for security concerns).

We are aware that HMRC intends to issue Scottish taxpayers with a tax code prefixed by an "S", and payroll systems are expected to be able to apply the different rates of tax for Scottish and UK taxpayers. The SRIT will apply to all Scottish taxpayers regardless of where their employer is based, so all UK employers will need to be aware of the SRIT, even if they employ only a handful of Scottish taxpayers.

### Chapter 3 Powers and Obligations

- 6** *What are your views on the proposed framework for tax collection powers? We would be especially interested to know whether you see merit in the creation of a "Taxpayers Charter".*

**Inverclyde Council response:**

The proposed framework of four tax system principles looks reasonable (*clear well written tax laws, efficient collection mechanisms, operational fairness and easy taxpayer experience*). We would wish to see an additional principle incorporated that of a *fair and efficient resolution of disputes*.

We welcome the recommendation in the consultation document for a taxpayer's charter. Anything that actively promotes the Scottish taxpayers understanding and makes clear at the outset what the respective expectations and responsibilities of tax authority and taxpayer are should assist the process.

The changeover will require a "kick-off" with an information campaign for Scottish taxpayers. The objective must be to ensure that taxpayers understand what they need to do and by when. Forms, return and guidance will all need to be written in plain language of course and be easily accessible whether on-line or hard copy.

- 7** *What are your views on the proposed obligations on taxpayers? Are there any other obligations on taxpayers which should be included?*

**Inverclyde Council response:**

The five obligations (*declaration of tax liability, self assessment, timeous payment of tax due, retention of financial records and of their proper maintenance*) are reasonable and consistent with existing practice.

As part of the taxpayer's charter, we consider it reasonable for Revenue Scotland to give clear messages about the openness and honesty expected of taxpayers and the consequences of falling short of those expectations. In particular, income taxpayers who have their tax collected under PAYE may not fully understand all of these obligations.

- 8** *What are your views on the specific powers proposed for requesting information, for inspecting and sampling and for investigating? Are there any safeguards that might need to apply to them or any other powers you think Revenue Scotland might need?*

**Inverclyde Council response:**

The proposals for Revenue Scotland's powers to request information and for investigation look reasonable but this must be limited to what it reasonably believes to be relevant to the tax return in a given case. All of this needs to be subject to a set of safeguards in line with existing practice in Scotland. We agree that premises should be specifically excluded from the powers to inspect premises other than where business is carried out on the premise.

- 9** *What are your views on the proposals set out for the amendment of tax returns by Revenue Scotland or taxpayers? Please comment on the terminology, the time limits proposed and anything else you consider relevant to the amendment of tax returns?*

We would endorse the power of Revenue Scotland and the right of taxpayers to make any amendments to tax returns and the calculation of tax due and that the current HMRC process of amendment by "assessments" and "voluntary disclosures" should continue. We note the proposal to reduce the time limit to a four-year period (for non-fraud cases) for Revenue Scotland and for the taxpayer to one year. We consider that in the interests of equity, the time periods for Revenue Scotland and taxpayer should be the same.

- 10** *Are there any powers that Revenue Scotland should not delegate and, if so, what are they and why?*

We note the powers being sought for the delegation of responsibility for the collection of Land and Buildings Transaction Tax (LBTT) and Scottish Landfill Tax to Registers of Scotland (RoS) and the Scottish Environment Protection Agency (SEPA) respectively. We concur that Revenue Scotland should be able to delegate the administration of tax collection to these and other public bodies, subject to the publication of a formal agreement between Revenue Scotland and the body concerned. We would wish to see local taxation - national non-domestic rates and council tax - continue to be administered by local authorities.

#### **Chapter 4: Ensuring Compliance**

- 11** *What else might be done to make it as easy as possible for taxpayers to comply with their obligations, and to ensure that those who wish to comply are supported to do so?*

We agree that it is in the public interest that taxes are designed to encourage compliance and that non-compliant taxpayers are encouraged to become compliant. Non-compliance risks increased costs of administration and reduced tax collection levels. It is essential that safeguards exist and that the tax authority's use of sanctions are fair and proportionate; are



operated in an even-handed and transparent way; and that where appropriate the taxpayer has a right of appeal.

We would offer the following observations from our experience of local taxation:

- Systems should be in place to allow the submission of tax returns via a variety of means including on-line.
- There should be help available for taxpayers who require assistance with their returns.
- There should be reminders issued to taxpayers to advise them of their obligations and deadlines for returns and payments.
- There needs to be a facility for taxpayers to pay by various payment methods including on-line.
- There also needs to be a facility for taxpayers to pay in instalments.

**12     *What particular features should Revenue Scotland's systems include to help agents to operate most effectively on taxpayer's behalf?***

We would offer the following observations from our experience of local taxation

- Systems should enable a taxpayer to advise Revenue Scotland of their appointed agent, and for the agent to be recorded on the taxpayer's records thus enabling Revenue Scotland to liaise directly with the agent on the taxpayer's behalf.

**13     *What are your views on the list of non-compliant behaviours at 4.10 – for example, are there other situations in which civil penalties should be available?***

The list of non-compliant behaviours at 4.10 covers all situations that we are aware of in which a civil penalty should be available. We are not aware (from a local taxation perspective) of any additional circumstances that would merit a penalty.

**14     *What are your views on the proposal that Revenue Scotland should have discretion, subject to maximum penalties set in legislation and also subject to published guidance, to determine the level of sanctions? What factors might be taken into account by Revenue Scotland in deciding what level of sanction to apply?***

We agree, based on our experience of local taxation, that Revenue Scotland should have discretion to determine the level of sanction, and the factors that should be taken into account to modify the level of sanction to include:

- the amount due;
- how overdue the payment is;
- whether it is a first offence; and
- whether there are extenuating circumstances such as illness or age.
- whether the action was deliberate or not
- whether the tax payer has a reasonable excuse

**15     *What are your views on the type of sanction and their possible uses described in the text box at the end of chapter 4?***

The sanctions proposed appear to be appropriate and fulfil the aims of being proportionate, consistent and predictable.

**16      *What are your views on the proposed arrangements for collecting unpaid tax set out at 4.23-4.26?***

We note that Revenue Scotland will retain the existing powers of HMRC (and Scottish local authorities) to enter into voluntary agreements with taxpayers; and to progress to a summary warrant to enforce collection of the outstanding tax where this has not been paid. We consider that if this arrangement is currently afforded to HMRC and it is sufficient for local Scottish taxes, it should apply to all Scottish taxes.

**Chapter 5: Tackling Tax Avoidance**

**17      *What are your views on the measures proposed for tackling tax avoidance? What other methods might be employed?***

The simpler any new tax system, the easier the learning will be. And the existing UK tax system is anything but simple. There will be a tipping point at which the ordinary taxpayer will not readily set aside additional time for study or learning (or incur expense) that is much beyond their knowledge, experience and familiarity of the current UK tax system.

Revenue Scotland needs to provide an easy and convenient experience for the taxpayer, the vast majority of whom currently only make occasional contact with tax authorities and where they believe (rightly or wrongly) that something has gone wrong. If this is not the case and there are obstacles to access, there is an increased risk of non-compliance and reduced tax collection levels.

Tax avoidance is very much in the news and in the court of public opinion, and social justice needs to be evident in the devolved tax system. The tax system is as important as other areas of the justice system and it needs to be aligned and integrated with the country's wider and distinct legal and constitutional aspects.

**18      *If obligatory notification arrangements were included in the proposed Tax Management Bill, what do you think should be the main features? Are there any features of other similar schemes that you think should be avoided?***

We offer no comment. It is likely that any comment on the consultation will come from the sectors and groups specifically identified.

**19      *Of the two broad approaches – a General Anti-Avoidance or Anti-Abuse Rule (GAAR) targeted at highly-artificial and contrived abuse of tax legislation, or more widely-drawn provision – which do you think is likely to be more effective, and why?***

The consultation proposes a Scottish GAAR and asks for views on how it should be structured for maximum effect, and a requirement for organisations to notify Revenue Scotland of any anti-avoidance schemes they are marketing. Stamp Duty Land Tax, which the LBTT will replace in Scotland from 2015, has been subject to aggressive avoidance schemes on a UK basis.

We consider that strong anti-avoidance measures are essential to make sure



that tax is collected, and we would welcome the Scottish GAAR. The UK Government is currently consulting on a UK GAAR; no doubt the Scottish GAAR will be informed by these discussions.

The Scottish Government will have the significant advantage of starting with a clean sheet and so a new GAAR with simpler and clearer legislation might be much easier for it to deliver. Also, Government policy has to be set out in a policy memorandum that will accompany the LBTT Bill, making it easier to determine whether transactions are abusive.

**20      *What advantages might a prior clearance rule offer? How might it be designed to provide maximum certainty at least cost?***

It is important to ensure that the Scottish GAAR does not create uncertainty or add further complexities for those carrying on business, living or working in Scotland. To that end, its terms must be clear. It should also be introduced with a statutory clearance procedure, which would allow taxpayers to obtain clearance from Revenue Scotland on the effect of the Scottish GAAR before they enter into a transaction.

**21      *How can the intentions of those drafting and passing the relevant legislation best be set out in a way that is useful to taxpayers, Revenue Scotland, and those adjudicating on disputes and appeals?***

We offer no comment. It is likely that any comment on the consultation will come from the sectors and groups specifically identified.

**22      *What tests do you think should be used to decide whether an arrangement is wholly or mainly intended to achieve a reduction in tax due?***

No comment.

**23      *Do you see a role for external expertise in assessing tax arrangements to see whether they are "caught" by a GAAR, and if so what might that role be? What arrangements do you think should be put in place for appeals?***

No comment.

## **Chapter 6: Resolving Tax Disputes**

**24      *What are your views on the proposals set out from 6.6 – 6.8 for avoiding disputes? What else could Revenue Scotland do to avoid disputes arising in the first place?***

We welcome the priority "to get it right first time". As part of this, the culture of Revenue Scotland needs to be developed so that there is a clear commitment to the customer and for public accountability.

The tax legislation itself will require to be clear, robust and understandable. The choice of dispute resolution processes Revenue Scotland might adopt, such as independent internal reviews, the use of specialist dispute resolution or settlement teams to resolve these will be vital to the quality of service and convenience to taxpayers.

**25      *What are your views on the proposed arrangements for reviews and/or the appropriate duration for the period within which the review must be concluded?***

We offer no comment. It is likely that any comment on the consultation will come from the sectors and groups specifically identified.

- 26 ***What are your views on the proposal to encourage the voluntary use of mediation? Should we be considering any other approaches to dispute resolution?***

We offer no comment. It is likely that any comment on the consultation will come from the sectors and groups specifically identified.

- 27 ***What do you think would be the best option for dealing with appeals to a tribunal until a tax jurisdiction is established in the Scottish Tribunal System?***

We offer no comment. It is likely that any comment on the consultation will come from the sectors and groups specifically identified.

- 28 ***How should the costs of mediation or tribunal appeals be met or shared?***

We offer no comment. It is likely that any comment on the consultation will come from the sectors and groups specifically identified.

- 29 ***What are your views on how Revenue Scotland could best demonstrate that it is learning from the resolution of disputes?***

We would expect Revenue Scotland, RoS, SEPA and any other body to which Revenue Scotland has delegated powers to conduct a regular review of complaints and to identify areas for improvement.

- 30 ***What are your views on the proposed approach to the handling of complaints set out from 6.24-6.27?***

We concur with complaints handling being dealt with Revenue Scotland or a body acting on its behalf with the safeguard of referral by the complainant if still dissatisfied to the incoming Police Investigations and Review Commissioner (PIRC).

#### **Chapter 7: Treatment of Taxpayer Information**

- 31 ***What are your views on the proposed statutory provision forbidding disclosure of information held by Revenue Scotland? Should there be criminal sanctions if information is disclosed?***

We note that in some countries e.g. Ireland, Norway and Sweden the established practice is for tax returns to be made publically accessible as a means of supporting social justice and to promote tax compliance. We agree with the consultation that Scottish taxpayers should not be expected to be more open in their tax affairs than is presently the case under HMRC's obligations to protect the confidentiality of taxpayer information.

Disclosure of information by taxpayers who have complied with the requirement to submit an accurate return and pay on time is not appropriate in our view. Regulation on the disclosure and sharing of information should be tightly controlled. We see no reference to the Data Protection Act and the fact that Revenue Scotland will be data controller and so require to comply with the terms of that legislation.

We are aware that there is an argument for the disclosure of information in

circumstances where taxpayers have been subject to criminal prosecution. This would promote a public awareness of the consequences of non-payment.

- 32** *Do you agree that Revenue Scotland should be empowered to share with other public bodies and other tax authorities internationally for the purposes outlined at 7.8 and 7.9? Do you think there are other purposes for which information should be shared? Should such sharing be governed by some kind of formal agreement, and if so what form should that arrangement take?*

A key area will be the relationship between Revenue Scotland and HMRC for the sharing of taxpayer data. Without appropriate preparation and systems and agreements in place, a tax avoidance or other opportunity may exist for those willing to exploit them. This will need Revenue Scotland we believe to encompass an ongoing relationship not only with HMRC for taxpayer information but also with local authorities for rates, benefits and council tax, the Department for Works and Pensions on benefits and with HM Treasury on yield and analysis.

A number of benefits, such as housing benefits, are currently paid according to "income after tax". The benefits system will remain with the DWP and should there be a variation in the Scottish rate of income tax, the interaction between systems would require to be resolved so that there was no unintended detriment to claimants.

And if future tax powers are devolved, Revenue Scotland will also need international tax co-operation for its tax collection to be as efficient as possible.

We have direct experience of data sharing with other public bodies as part of the National Fraud Initiative (NFI) and would wish to see the close co-operation continue with both Scottish and UK public bodies. Information sharing through the NFI initiative has proven successful in detecting fraud.

Although we appreciate that there is no definitive definition of "public interest", we would recommend that some general guidance as to how this will be addressed by Revenue Scotland would be useful. The sharing of information must be governed by a formal agreement which would set out the information that can be shared and the purposes for which the information can be used.

- 33** *Do you agree that the existing framework for public interest disclosure, described at 7.16, is sufficient for Revenue Scotland?*

This question concerns "whistle-blowing" that sets out what a public official should do if he or she suspects there is wrongdoing. This is consistent with the existing standard practice across the entire public sector in Scotland and within which local authorities operate. This is sufficient in our view.

- 34** *Do you agree that certain information held by Revenue Scotland and bodies to which it has delegated powers should be exempt from Freedom of Information legislation in order to prevent disclosure of information that*



***would identify or could be used to identify a taxpayer?***

At present HMRC (and other public bodies) can refuse to release information sought under Freedom of Information (Scotland) Act 2002 (FOISA) when that would identify or could be used to identify a taxpayer. But otherwise it needs to comply with FOISA as we do in local government.

We concur that Revenue Scotland should be subject to similar exemptions from FOISA. Information that identifies a taxpayer should be exempt from FOI requests as the information should be prevented from being disclosed by legislation as detailed in Q31. If such information was not exempt we believe (based on our experience of local taxation) Revenue Scotland would be inundated with spurious requests for information.

**Chapter 8: Accelerated Tax Changes**

**35      *What are your views on the proposals for an accelerated tax changes regime set out at 8.10?***

This question concerns a Scottish equivalent mechanism for the existing UK arrangements to enable the swift introduction of tax changes with subsequent Parliamentary scrutiny. This is specific to national taxation and we offer no comment.

**Draft Equalities Impact Assessment**

**36      *Do you have any comments on the draft Equalities Impact Assessment (EQIA) published alongside this consultation?***

We offer no comment on this appendix. It is likely that any comment on the consultation will come from bodies or individuals specifically identified within the criteria listed in the EQIA.

**Draft Business and Regulatory Impact Assessment**

**37      *Do you have any comments on the draft Business and Regulatory Impact Assessment (BRIA) published alongside this consultation?***

We offer no comment on this appendix. The BRIA does not fully identify at present the impacts (including costs). It is likely that any comment on the consultation will come from the sectors and groups specifically identified within the criteria listed in the BRIA.

**Overall**

**38      *Do you have any other comments you wish to make on the arrangements for tax management?***

We have no further comment.