30 Monck Street
London SW1P 2AP
T: +44 (0)20 7340 0550
E: post@ciot.org.uk

Scotland's public finances in 2022-23 and the impact of COVID-19

Finance and Public Administration Committee – call for views

Response by the Chartered Institute of Taxation

1 Executive Summary

1.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation. In terms of this call for views therefore, we do not put forward suggestions of particular powers for devolution or specific policy proposals. Our concern is to ensure that key principles and issues are borne in mind when considering policies.

1.2 Prior to the coronavirus pandemic, the Scottish Government had been considering methods of improving the tax policy-making process and the legislative processes for taxes in Scotland. It will be necessary to see this work through to fruition in order to ensure that Scotland's tax system is in the best position possible to support its economic recovery. When making choices relating to tax policies in the context of the tax powers that Scotland has, it is important that the Scottish Government gives detailed consideration to interactions between Scottish tax policies (both national and local taxes) and those for reserved taxes (including the reserved aspects of income tax). In addition, consideration needs to be given to interactions between Scottish tax policies and Scottish social security policies, as well as between those policies and UK reserved social security policies.

1.3 Publishing a detailed analysis of impacts when tax policy is being developed and consulting on this would improve consideration of fairness and equality issues earlier in the process. The Government could also have a programme of reviewing whether assumptions made in evaluating impacts prove to be correct, or whether in fact there have been unintended consequences of a measure.

2 About us

2.1 The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

2.2 The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

2.3 The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

2.4 Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

3 Introduction

3.1 We welcome the opportunity to offer our views in response to the Finance and Public Administration Committee's call for evidence on Scotland's public finances in 2022-23 and the impact of coronavirus. These include those of our Low Incomes Tax Reform Group (LITRG). This forms part of the committee's pre-budget scrutiny, which aims, among other things, to improve transparency and increase public awareness of the Budget. We would be pleased to provide further detail if required.

3.2 Our stated objectives for the tax system include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

3.3 LITRG's seven principles for the tax system, as set out in its paper 'A better deal for the low-income taxpayer',[1] are:

1. Clear and up to date
2. Simple
3. Equitable

[1] See https://www.litrg.org.uk/latest-news/reports/201204-better-deal-low-income-taxpayer

4. Just
5. Accessible and responsive
6. Joined up
7. Inclusive

3.4 The coronavirus pandemic has required all of us to change how we live and work and is likely to have long-term economic effects for Scotland. We welcome the fact that the committee is considering different aspects of Scotland's recovery from the pandemic as part of its pre-budget scrutiny, and in particular how to ensure that it is fair and equal, taking account of the impacts of the pandemic on different groups, according to age, income, education and place.

3.5 In October 2020, with our 'sister' charity the Association of Taxation Technicians (ATT), we established a Joint Equality, Diversity and Inclusion (EDI) committee. The committee assists us in ensuring we have clear EDI values that can be demonstrated through our behaviours, actions and operations. Its remit includes not only EDI within our own organisations and the tax profession, but it is also starting to consider EDI issues around tax and related policy.

3.6 LITRG has done substantial work on tax and EDI matters over the last 23 years, producing its own reports,[2] commenting on the UK and devolved governments' impact assessments and EDI action plans, and supporting taxpayers in an appeal against mandation of online filing for VAT on EDI grounds.[3] Success in that appeal resulted in changes to the VAT Regulations to accommodate those digitally excluded by reason of age, disability or remote location and has influenced HMRC policy in its Making Tax Digital programme.

3.7 As a tax professional body, we do not have the expertise to comment upon all aspects covered by the inquiry. However, our members as tax advisers, in professional practices, commercial enterprises, public sector and charities have extensive anecdotal evidence of the impact of the pandemic on their clients and other people they deal with. LITRG also receives feedback from members of the public via its website contact facility, which often includes information on EDI-related matters (with older people, disabled people, carers and those with English as a second language sharing their experiences). Our comments are made on this basis.

4 How should the Scottish Government's Budget for 2022-23 address the need for a fair and equal recovery from the Covid crisis?

4.1 Both the UK Government and the devolved governments have offered unprecedented levels of support for individuals and businesses, aimed at easing the economic impact of the self-isolation and social distancing measures required to shield the population – and particularly the most vulnerable – from the disease.

4.2 Although we offer comments on taxes, we do not provide views on the future required level of taxation. Nor do we comment on where the burden of taxation should fall. These are matters for politicians. Paragraph 3.2 above sets out our objectives for the tax system, and hence where our interests lie. Prior to the coronavirus pandemic, the Scottish Government had been considering methods of improving the tax policy-making process and the legislative processes for taxes in Scotland. It will be necessary to see this work through to

[2] Examples include 'Disability in Tax and Related Benefits', December 2003, see https://www.litrg.org.uk/latest-news/reports/040115-disability-tax-and-related-benefits-case-modern-and-coherent-approach; 'Older people on low incomes – The case for tax reform', May 2007, see https://www.litrg.org.uk/latest-news/reports/070530-older-people-low-incomes-case-tax-reform and others. LITRG's full reports and submissions archive can be found at https://www.litrg.org.uk/latest-news/reports and https://www.litrg.org.uk/latest-news/submissions
[3] *LH Bishop Electric Company Ltd and others v HMRC* [2013] UKFTT 522 (TC).

fruition in order to ensure that Scotland's tax system is in the best position possible to support its economic recovery.

4.3 Whatever tax powers Scotland has and whatever policies are implemented in order to support the coronavirus recovery, it is essential that the Scottish tax system, its policy framework and the process for making tax legislation operate effectively and with credibility.

4.4 When making choices relating to tax policies in the context of the tax powers that Scotland has, it is important that the Scottish Government gives detailed consideration to interactions between Scottish tax policies (both national and local taxes) and those for reserved taxes (including the reserved aspects of income tax). In addition, consideration needs to be given to interactions between Scottish tax policies and Scottish social security policies, as well as between those policies and UK reserved social security policies.

5 How should the Scottish Government's Budget address the different impacts of the pandemic across age, income and education groups and across places?

5.1 There has been a huge amount of research carried out into the different effects of the coronavirus pandemic, in terms of society and the economy. This has been done at both a UK-wide level[4] and a Scottish level.[5] It may be helpful to think about which groups of society have been particularly badly affected by the pandemic, whether the Scottish Government has the appropriate policy levers (tax or otherwise) to address those impacts, and which combination of policy levers would be most appropriate to use, bearing in mind actions taken at a UK level and interactions with UK policies.

5.2 While mindful of the risk of over-generalising, the following general trends seem to have appeared:

- Those in a more 'longstanding' working environment – whether employed or self-employed – have been better supported during the pandemic. This is because (albeit with some exceptions) if their circumstances have been adversely impacted by the pandemic they will have been entitled to UK government support through the Coronavirus Job Retention Scheme (CJRS) or Self-employment Income Support Scheme (SEISS).

- Those in a more 'fluid' working environment – again, whether employed or self-employed – have been harder hit. For instance, the newly self-employed missed out on the first three SEISS grants,[6] freelancers and those on short-term projects may have been ineligible for SEISS and similarly not furloughed by their 'employer'. Other lower paid staff, without guaranteed hours in industries most harshly affected by the pandemic (for example, hospitality and non-essential retail), may have been made redundant, or simply not furloughed by their employer.[7]

---

[4] For example, both the Institute for Fiscal Studies (IFS) and Office for National Statistics (ONS) have carried out work at a UK-level: https://ifs.org.uk/coronavirus and https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/publications?filter=article&filter=compendia

[5] For example, the Scottish Government has carried out a variety of work: https://nationalperformance.gov.scot/scotlands-wellbeing-impact-covid-19 and https://data.gov.scot/coronavirus-covid-19/index.html as has the Fraser of Allander Institute: https://fraserofallander.org/covid/

[6] They may however have qualified for support from the Scottish Government through the Newly Self-employed Hardship Fund.

[7] For example, there is no obligation on an employer to furlough a zero hours worker. The employer may simply have told the employee there is no work for them to do and so they would remain unpaid during that period.

- Those in 'intangible' sectors such as professional services have been able to react more quickly through the ability to work from home. Many businesses are now adopting a more flexible way of working in whole or part as their new normal.

- Those in 'tangible' sectors such as retail and hospitality have suffered from increased costs of personal protective equipment (PPE) and the need to enforce social distancing etc. With the likely exception of essential retail, these sectors will also have seen their income reduce (if not be extinguished), due to restrictions on customer numbers etc.

5.3 Some individuals have fallen through the gaps between coronavirus support schemes as a result of the failure to address openly and comprehensively the so-called 'three person' problem, whereby employed and self-employed individuals and essentially one person companies engaged in similar ways economically are taxed at quite different rates and in quite different ways.[8] This is exacerbated by the fact that many people do not understand the importance of these differences in status – a sole-director company is not 'self-employed' for tax purposes, nor is a worker in the Construction Industry Scheme (CIS) necessarily 'employed' (even though they might suffer a deduction of tax at source). This is not a problem that is within the gift of the Scottish Government to address directly via tax policy, although it may be possible to use other policy levers to mitigate the issues noted in paragraph 5.2.

5.4 Acknowledging that the Scottish Government cannot resolve this issue on its own within current devolved powers, we note that the three person problem has had the following effects in the context of the coronavirus pandemic (as this could be a factor in policy-making):

- Employment *versus* self-employment – the differential tax treatment[9] is a motivating factor to be or to present oneself as self-employed. There is an even more perverse fiscal incentive for employers to seek to move the people they engage off-payroll into self-employment, to avoid employers' National Insurance contributions (NIC) costs;[10] there is increasingly broad anti-avoidance legislation to limit the effect of this, imposed at considerable compliance cost and complexity. But the more fluid nature of self-employment, or moving between employment and self-employment, has reduced or eliminated entitlement to either CJRS or SEISS. Similarly, those employers with staff on their payroll have suffered greater costs than those using self-employed contractors.[11] Had these long-standing differentials been addressed, the UK Government's coronavirus support packages could have had a more comprehensive scope with fewer people falling through the gaps.

- Unincorporated *versus* incorporated – similarly, there are advantages to incorporating a business, with it having previously been fairly standard tax planning for owner-directors to take a small salary, with the remainder of their income being paid as dividends.[12] Again, engagers of personal services

---

[8] The relevant tax powers are reserved to the UK Government.

[9] Predominantly the incidence of employer National Insurance contributions on employers at 13.8%, but also larger employee NIC, as well as stricter rules on deductions for expenditure.

[10] And for larger employers, Apprenticeship Levy.

[11] Since August 2020 the UK Government has not reimbursed the cost of employer NIC or pensions costs, and in some periods the employer has been required to reimburse some of the salary element, too. Not to mention the cost and complexity of undertaking CJRS claims.

[12] In terms of how this affects tax revenues, a Scottish taxpayer who is either employed or self-employed pays Scottish income tax, which flows directly to the Scottish Government. Their NIC flows to the UK Treasury and benefits the Scottish Government indirectly through the block grant. A Scottish taxpayer who operates through a company as an owner-director as noted will likely pay no Scottish income tax but will pay UK income tax on their dividends; the company will pay UK corporation tax. The Scottish Government will benefit directly through the block grant.

have been very influential in procuring this outcome by preferring to deal – and sometimes insisting on dealing – with incorporated businesses, including one-person companies. Notwithstanding proposals made by many representatives and professional bodies, this incentive created by the tax system resulted in many owner-directors being eligible for little or no coronavirus support.

The scope of income tax and NIC has also drawn attention. One example is that pensioners pay tax, but not NIC, on their employment / self-employment / pension incomes. As noted earlier, some pensioners may have become 'better off' during the pandemic (at least in relative financial terms) contributing to a sense of unfairness that they have been more lightly 'taxed' than those below pension age. We recognise that this is not a straightforward issue, in that pensioners will have paid NIC in the past, and that there are also other examples of financial returns not being subject to NIC, such as rental profits and investment returns.

5.5 The issues mentioned in 5.4 are not new. However, previous attempts to more closely align the treatments have either tinkered around the edges[13] or have not been sustained.[14] It is time that these issues were addressed with proper consultation, and we have called on the UK Government to do so.

5.6 There are other factors that the pandemic has brought into sharper focus:

- The timeliness and quality of guidance from government sources – Good-quality guidance benefits all types of taxpayer (and also, we suggest, is of more significance than is often realised in deterring abuse and stretched interpretations of legislation). It is of particular importance to taxpayers who cannot afford independent bespoke advice, but who are exposed to complex issues around tax – and sometimes its interaction with credits or benefits – as a result of very low income, migration, or of life patterns or events such as childcare, divorce, redundancy or bereavement. It is key that:
    - Taxpayers are able to look at previous rules and versions of guidance. Specifically relating to the coronavirus pandemic, the Scottish Government has offered various support schemes for business, for which details are provided on the website FindBusinessSupport.[15] However, once schemes closed, the information surrounding them was removed, meaning that it is difficult for taxpayers to check that a claim for support was valid in accordance with the rules at the time.
    - Guidance should not be oversimplified to the extent that it ignores or glosses over some of the complexities of the tax system. Oversimplified guidance can be misleading and in some cases, result in taxpayers taking incorrect actions, because the guidance does not make it clear that there are other nuances to consider.

- The coronavirus pandemic has also reinforced the need for joined-up guidance between departments, with LITRG having noted that many of those making contact via its website during the pandemic have been left confused about how all the types of support fit together.[16]

- Interaction of taxation and benefits – Issues arise, for example, in connection with Universal Credit (UC), in particular when a claimant's earnings increase. Assuming the claimant is a Scottish basic rate taxpayer and earns above the income tax personal allowance, an increase in earnings of £1,000

[13] Such as the changes to dividend taxation in April 2016.
[14] Such as the 2017 UK Budget announcement to increase NIC for the self-employed, which was subsequently reversed.
[15] https://findbusinesssupport.gov.scot/
[16] See page 16 of 'A better deal for the low-income taxpayer' (full version): https://www.litrg.org.uk/latest-news/reports/201204-better-deal-low-income-taxpayer

(gross) per year would result in an increase in household income of only £251 due to the taper applied to the UC claim, calculated thus:

	£
Increased salary	1,000
Less: income tax	(200)
Less: NIC	(120)
Increase in take home pay	£680
Universal credit taper (63%)	(429)
Actual increase in household income	251

This is akin to a 'tax' rate of nearly 75%.[17]

Other welfare benefits may also be reduced or lost, such as council tax support. There may also be a loss of passported benefits such as free school meals, and there may be an increase in other costs associated with working more hours. Thus, people on the lowest incomes often face higher marginal rates of tax, if loss of entitlements is included, than people at the higher or top end of the income spectrum.

- This issue has to be seen in the context of the significant increases to the personal allowance by the UK Government in recent years and the introduction of the 19% rate band of Scottish income tax by the Scottish Government. For many years increasing the personal allowance was often seen as a way of helping the lowest paid. But for individuals on the lowest incomes, who pay no income tax due to the level of their earnings, an increase in the personal allowance or a decrease in the lowest rate of tax makes no difference to their income. Instead, an increase in the primary threshold for NIC purposes or changes to the UC system (for example increases to the work allowances) might increase their household income more efficiently.[18] We are of course aware that the Scottish Government has indicated that there are only likely to be increases to the bands during the coming parliament to the extent necessary to reflect general price inflation, as a fiscal consolidation measure following the impact of the pandemic on the government's finances.[19] However, when resources again allow more significant changes to the Scottish income tax system, the government needs to assess the benefits of this against other options such as using social security powers or changes to council tax and other policy levers, in terms of their relative impacts on work incentives, the income and quality of life of

[17] For simplicity, this example uses a basic rate of 20% for income tax, on the basis that this is the taxpayer's marginal rate of income tax. It also assumes that the no work allowance applies in UC or any work allowance is already used up against earnings.
[18] We note these particular powers are not within the remit of the Scottish Government.
[19] Given the proposed freezes announced by the UK Chancellor, it is possible that even minor increases in Scottish thresholds might result in slower growth in Scottish income tax receipts in comparison with UK income tax receipts, which could penalise Scotland's funding through the block grant.

the lowest paid people. The benefit of particular measures on different sections of the population (such as working age versus retirement age) needs careful consideration to ensure an equal recovery.

5.7 One example of research in respect of disproportionate impacts of the coronavirus pandemic relates to work that has been carried out in respect of unpaid carers.[20] Under the Scotland Act 2016, carers' benefits have been devolved to Scotland. At present, there is a Scottish Carer's Allowance Supplement, which tops up the UK-wide Carer's Allowance. In due course, it is expected that Carer's Assistance will replace Carer's Allowance and Carer's Allowance Supplement in Scotland. The devolution of these powers means the Scottish Government can provide additional assistance to some unpaid carers (those in receipt of UK-wide Carer's Allowance). It did this in 2020 through the Coronavirus (Scotland) (No. 2) Act 2020, and is currently proposing to do so in 2021 by means of the Carer's Allowance Supplement (Scotland) Bill. Scotland also has powers over health, and there may be other, non-tax and non-social security related policies that might provide other forms of support to unpaid carers.

5.8 It might be possible to do more to consider EDI issues and how policies might affect different groups during the development of policy, rather than to assess their impact once the policy has been determined. Publishing a detailed analysis of impacts when tax policy is being developed and consulting on this would improve consideration of fairness and equality issues earlier in the process. The government could also have a programme of reviewing whether assumptions made in evaluating impacts prove to be correct, or whether in fact there have been unintended consequences of a measure.[21]

6 In 2022-23, it is likely that there will be reduced levels of available Covid-related financial support for the public and private sector. Given this, what should be the priorities for the Scottish Government's Budget?

6.1 We do not offer comment on what the Scottish Government's spending priorities should be. There is arguably limited potential for raising additional revenue through tax changes.

6.2 The Scottish Parliament has limited Scottish income tax powers – the ability to set rates and bands for income tax that applies to the non-savings and non-dividend income of Scottish taxpayers. While not offering a view on what rates and bands should apply, we note that the Scottish income tax structure is arguably already more progressive than that for UK income tax, and as a natural corollary of the structural difference (and interactions between the devolved and reserved aspects of income tax), there is some additional complexity for Scottish taxpayers as compared to those in the rest of the UK.

6.3 If changes are made to Scottish income tax, it is imperative that the interactions with the reserved aspects of income tax are carefully examined, as well as interactions with other aspects of the reserved taxes, such as NIC. In addition, it will be important to consider how the Fiscal Framework interacts. This will hopefully help ensure that any policies do not have unintended consequences and that if the aim is to raise additional revenues, for example, that this is the outcome.

[20] The ONS published data showing the impact on various aspects of the lives of unpaid carers across Great Britain: https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/socialcare/articles/coronavirusandthesocialimpactsonunpaidcarersingreatbritain/april2021

[21] LITRG refers to unintended consequences of the tax policy-making process in its report, A better deal for the low-income taxpayer – see pages 47 to 49 of the full version at https://www.litrg.org.uk/latest-news/reports/201204-better-deal-low-income-taxpayer

6.4 In relation to Scottish income tax, it should be noted that perhaps the greatest impact felt by Scottish taxpayers will be as a result of any changes made by the UK Government to the reserved aspects of the system, in particular the personal allowance, which are outwith the control of Scotland.

6.5 Land and Buildings Transaction Tax (LBTT) and Scottish Landfill Tax (SLfT) are fully devolved taxes, so they are entirely within the remit of the Scottish Parliament. There may be policy options that, regardless of whether or not they raise additional revenue, may provide support to taxpayers – whether individuals or businesses; the market as a whole or specific classes of buyer. It would be important to establish whether there are particular types of transactions that require support, and whether a particular policy will have the desired effect. The Coronavirus (Scotland) (No. 2) Act 2020 increased the nil rate band for residential property transactions for several months with a view to stimulating the housing market. This provided an LBTT saving for the purchaser, but data suggests that house prices rose, effectively removing some or all of the benefit of the tax saving.[22] We note that following temporary relief from Stamp Duty Land Tax (SDLT) for first time buyers of shared ownership properties in 2010 – 2012, HMRC undertook an evaluation. It concluded that the majority of the 1 per cent tax relief (0.5-0.7%) was in fact capitalised in higher prices, although the post-tax outlay for buying property was estimated to have decreased by 0.3-0.5% after the relief was introduced.[23] We are not aware of any similar reviews being undertaken for the more recent LBTT cuts or the corresponding measures in the rest of the UK. Whilst we suspect it will be extremely difficult to determine the extent to which prices have been affected by the LBTT cut during the coronavirus pandemic (in the way they were impacted in 2011), against the general economic recovery as we emerge from the pandemic, we would recommend that an evaluation is carried out, similar to that undertaken by HMRC in late 2011, to help determine to what extent the LBTT cut achieved its objectives and its impact on LBTT revenues; and that the evidence of this review is taken into account in future decisions.

6.6 Over the past few years work has been carried out to review both non-domestic rates[24] and council tax.[25] Although recommendations made following the Barclay Review have been and are in the process of being implemented, there has been very little change to council tax. One option would be to earnestly review and reform council tax, with a particular focus on ensuring land or property values are reflected more consistently and updated regularly. Such a review could include the bands and rates. If there were concerns about capacity to pay in cash terms for certain groups, consideration could be given to mechanisms to allow payment deferral, for example.

6.7 In our response to The Commission on Local Tax Reform, we suggested possible ways of amending the current council tax system. We also set out some general principles to follow when reforming council tax. These points continue to be valid, and we would suggest that submission is also considered.[26] However, we note that such reform is a longer-term project and thus unlikely to have an impact on funding for 2022-23.

6.8 For all changes to existing devolved and local taxes, it is essential that adequate time and capacity is given over to ensuring that the taxes can continue to be administered effectively and efficiently and that there is clear and accessible guidance for affected taxpayers, as well as awareness-raising of any changes, their timing and what they mean for taxpayers.

[22] https://www.ons.gov.uk/economy/inflationandpriceindices/bulletins/housepriceindex/march2021
[23] See https://www.gov.uk/government/publications/evaluating-the-impact-of-stamp-duty-land-tax-first-time-buyers-relief
[24] Barclay Review of Business Rates: https://consult.gov.scot/rates-review/barclay-review-of-business-rates/
[25] The Commission on Local Tax Reform: http://localtaxcommission.scot/download-our-final-report/
[26] https://ciotmktgprodeun.azureedge.net/policy-future-of-local-taxation-in-scotland-ciot-comments

6.9 Assuming that Scotland has the authority to introduce a tax in a particular policy area, there are a number of considerations that should be taken into account at an early stage. We do not provide a comprehensive list here, but some of the issues to be considered include the following:

- The *locus* of the tax – ideally it should be easy to identify whether the object being taxed is in Scotland or connected with Scotland, rather than anywhere else. This has resulted in the fully devolved taxes to date being those relating to transactions that clearly take place in Scotland. This makes it simpler for taxpayers and the tax authority.
- National and local – is the tax going to be imposed at a national level, in the same way throughout Scotland, and administered by the Scottish tax authority, Revenue Scotland? Or, is it going to be imposed at a local level? This might mean administration by local authorities and a choice over whether to levy the tax or not. If a tax is local, there are then considerations of how much of the tax is designed at a national level and how much at a local level – consistency across Scotland can mean greater ease of administration and understanding, but more local autonomy can mean a tax is better suited to local needs. Local autonomy could also result in distortions or a postcode lottery, meaning that those with the capacity to relocate may be able to live in a lower tax location. Those with less choice or lacking the finances to move home, may be stuck in a high tax location.
- Use of tax revenues – this may depend in part on whether the tax is national or local. Considerations may include how much of the revenue goes into the general Scottish Budget; how much is retained by local authorities if a local tax; how much equalisation across local authorities there is if a local tax; whether hypothecation[27] is possible and appropriate, and if so how prescriptive that is.

6.10 If new forms of taxation are to be introduced (whether local or national), we think it is important that there is a full and thorough consultation process. Ideally this would be carried out according to a new tax policy framework process, as consulted on by the Scottish Government in 2019 (see paragraph 7.3 below). As with changes to existing local taxes, given the timescales involved in introducing new taxes, this will not assist with funding for 2022-23.

6.11 Consideration of new taxes might include taxes that target the need to tackle climate change. Climate change and carbon emissions know no national boundaries. It will therefore be particularly important to work with the UK Government and other devolved governments to ensure that any policies at the very least do not jar against other UK policies, and ideally complement them. Scotland has a target of achieving net zero emissions by 2045 – however, we note that this refers to carbon emissions produced. Ideally, the target should be net zero carbon emissions consumed. Otherwise, there is a danger that policies that would allow the achievement of net zero emissions produced might actually lead to significantly higher emissions consumed, because they serve to displace emissions rather than lower them.

7 How should the Scottish Government Budget in 2022-23 address the risks arising from the level and rate of recovery from the pandemic in Scotland relative to the rest of the UK? Please consider any impact on devolved tax receipts and social security benefits in your answer.

7.1 In order to ensure Scotland is well-placed to address risks arising from the level and rate of recovery relative to the rest of the UK, it is important that Scotland's tax system has a secure tax base, and that the processes and mechanisms are in place such that the tax system is responsive to changing circumstances. Scotland can

[27] The dedication of the revenue from a specific tax for a specific purpose.

thereby ensure it has a tax system, policy framework and process for making tax policy and legislation that has integrity, credibility and is fit for purpose.

7.2 The situation created by the COVID-19 pandemic highlighted the importance of being able to make necessary tax changes quickly, without sacrificing scrutiny. The coronavirus pandemic is (hopefully) exceptional, and required exceptional measures, resulting in the need for amendments to various pieces of legislation, for example through the Coronavirus (Scotland) (No. 2) Act 2020. However, tax legislation often needs changing on a regular basis for much more mundane matters too, to ensure the credibility and integrity of the tax system.

7.3 It is therefore imperative that the work of the Devolved Taxes Legislation Working Group (DTLWG) is picked up in earnest as soon as possible. The DTLWG was set up by the Scottish Government together with the Scottish Parliament in March 2019. The DTLWG brings together stakeholders, including the CIOT, with an interest in the development of tax legislation.[28] This complemented the Scottish Government consultation 'Devolved taxes: a policy framework', which was published in March 2019.[29] The CIOT and its Low Incomes Tax Reform Group (LITRG) submitted a joint response to the consultation in June 2019.[30] While the consultation focused on the approach to planning, managing and implementing fully devolved tax policy in Scotland, the DTLWG was set up with the aim of taking forward recommendations made by the Budget Process Review Group in its June 2017 report. In particular, the DTWLG has explored options for alternative legislative processes for devolved taxes legislation and has examined the need for a Finance Bill. The DTLWG published its interim report in February 2020 for consultation and the CIOT responded.[31]

7.4 As noted in our response to the consultation on the interim report of the DTLWG, we believe there is a strong case for adopting an alternative legislation process for the devolved taxes, and we think that an annual Finance Bill and Finance Bill process would provide Scotland with a practical avenue for carrying out tax changes. It is our view that the current processes do not offer a sufficient balance between the competing needs of speed, scrutiny and responsiveness.

7.5 Additional advantages of an annual Finance Bill process would be a likely improvement in taxpayer awareness and understanding of Scottish taxes. This is not only important for ensuring accountability, but may also help to improve taxpayer buy-in to the tax system.[32]

8 How has the Fiscal Framework worked in managing response to the crisis?

8.1 It should be noted that Scotland is in a subtly different position from that of the UK as a whole. Many commentators have pointed out that the Bank of England's quantitative easing programmes, although governed by the Bank's statutory remit, have in practice greatly relaxed the constraints on the UK government's ability to fund itself through gilt issuance. Scotland does not have this ability. Instead, it is funded

[28] https://www.gov.scot/groups/devolved-taxes-legislation-working-group/
[29] https://consult.gov.scot/financial-strategy/devolved-taxes-policy-framework/
[30] https://www.litrg.org.uk/scottish-government-consultation-devolved-taxes-policy-framework
[31] https://archive2021.parliament.scot/parliamentarybusiness/currentcommittees/114453.aspx
[32] https://www2.deloitte.com/uk/en/pages/press-releases/articles/the-tax-education-gap-majority-of-the-uk-dont-understand-personal-tax.html

by a combination of revenues from Scottish taxes,[33] the block grant and very limited borrowing.[34] This places more constraints on Scotland's options.

8.2 The Fiscal Framework was published in February 2016.[35] It sets out the fiscal arrangements required to go alongside the devolution of tax and welfare powers to Scotland. It is due to be reviewed later in 2021. The Fiscal Framework includes a funding model that aims to guarantee a fair and transparent mechanism for adjusting the block grant, such that it reflects the introduction of devolved Scottish taxes and the transfer of responsibility for some social security spending to the Scottish Government. The growth of the annual block grant is determined by the operation of the Barnett Formula. The idea is that the Scottish budget should benefit in full from policy decisions by the Scottish Government that increase revenues or reduce expenditure. In addition, it should bear the full costs of decisions that reduce revenues or increase expenditure. Meanwhile, the retention of funding from the block grant provides significant stability.

8.3 We noted in 2015 in a response to the UK Government on 'Scotland in the United Kingdom: An enduring settlement' that 'the design of the fiscal framework and the decisions concerning block grant adjustments will be key to ensuring transparency and accountability'.[36] In terms of considering the Fiscal Framework, we think the comments we made in 2015 in response to the Finance Committee's call for evidence remain relevant.[37]

8.4 We have previously suggested that the pandemic may highlight problematic areas and stresses in the existing Fiscal Framework.[38] In light of that, we suggested there should be an examination of the fiscal impacts of the support programmes and how UK government funding in response to the coronavirus pandemic has translated into funds for the Scottish Government via the block grant and whether the Fiscal Framework has operated effectively and appropriately.

9 How should learnings from the pandemic inform the forthcoming review of the Fiscal Framework?

9.1 In response to the coronavirus pandemic, both the UK Government and Scottish Government have established programmes of financial support for various sectors. Part of the considerations should include an examination of the fiscal impacts of these support programmes and how funding announced by the UK Government has translated into funds available for the Scottish Government, via the block grant. This will help to establish whether the Fiscal Framework has operated as expected and whether it has worked appropriately in these exceptional circumstances.

9.2 The coronavirus pandemic may have highlighted problematic areas and stresses in the Fiscal Framework that might not be noticed in more normal circumstances. The Information Centre of the Scottish Parliament (SPICe) has published a number of articles that consider the Scottish Government's funding in the context of the

---

[33] The phrase Scottish taxes includes the fully devolved taxes (Land and Buildings Transaction Tax and Scottish Landfill Tax), the shared taxes (Scottish income tax) and local taxes (Council Tax and Non-Domestic Rates).

[34] The borrowing (capital and resource) available to Scotland is set out in the Fiscal Framework Agreement: https://www.gov.uk/government/publications/the-agreement-between-the-scottish-government-and-the-united-kingdom-government-on-the-scottish-governments-fiscal-framework

[35] The agreement can be viewed at https://www.gov.uk/government/publications/the-agreement-between-the-scottish-government-and-the-united-kingdom-government-on-the-scottish-governments-fiscal-framework

[36] Paragraph 1.3, https://www.tax.org.uk/policy-scotland-in-united-kingdom-an-enduring-settlement-ciot-comments

[37] https://www.litrg.org.uk/latest-news/submissions/150417-inquiry-scotlands-fiscal-framework-call-evidence

[38] https://consult.gov.scot/economic-development/call-for-views-advisory-group-on-economic-recovery/consultation/view_respondent?_b_index=120&sort=excerpt&order=descending&uuId=7951350 and https://archive2021.parliament.scot/parliamentarybusiness/CurrentCommittees/115236.aspx

coronavirus pandemic.[39] The questions raised and others like them will no doubt be helpful in informing the 2021 review of the Fiscal Framework.

10 Acknowledgement of submission

10.1 We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation and the Low Incomes Tax Reform Group are included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

12 August 2021

[39] https://spice-spotlight.scot/category/economy-and-finance/