

SCOTLAND VOTES NO

What does a “No” vote mean for businesses from a tax perspective?

Scotland has voted against independence. However, it is clear that changes will be made to grant further taxation powers to Scotland. So, despite the "No" vote, major changes are still on the horizon which could impact business in Scotland.

WHAT TAX POWERS DOES SCOTLAND ALREADY HAVE?

There has already been full devolution to Scotland in relation to council tax and business rates. Steps have also been taken to grant certain further tax powers to Scotland.

From 1 April 2015, Scotland will be responsible for:

- Land and Buildings Transaction Tax (LBTT), which will replace UK Stamp Duty Land Tax; and
- Scottish Landfill Tax (SLT), which will replace UK Landfill Tax.

From 1 April 2016, Scotland will also have powers to set a Scottish rate of income tax. Scotland already has the power to vary income tax by up to three pence in the pound, but has never exercised this right.

WHAT IS LAND AND BUILDINGS TRANSACTION TAX (LBTT)?

LBTT will replace UK Stamp Duty Land Tax (SDLT) for property transactions in Scotland. The new rules will apply to any Scottish real estate transaction completed on or after 1 April 2015 so long as it occurs pursuant to a contract entered into on or after 1 May 2012.

HOW IS THE SCOTTISH LBTT DIFFERENT TO UK SDLT?

The legislation is largely based on the UK SDLT rules. However, there are a number of differences, notably in relation to sub-sale relief, licences and the LBTT calculation on rents. Businesses should seek advice in relation to Scottish property transactions to determine how such changes may impact their proposed transactions, particularly on portfolio purchases including Scottish property.

WHAT WILL THE LBTT RATE BE?

The tax rates and bands have not yet been announced, but it is proposed that LBTT will be calculated on a “marginal basis” - so there will be progressive rates with each part of the purchase price being subject to LBTT at a different rate. There are indications that the top LBTT rate will be higher than that of SDLT, but this remains unclear until the rates are announced later in the autumn.

WHAT IS SCOTTISH LANDFILL TAX?

SLT will replace UK Landfill Tax in Scotland. As with the UK Landfill Tax, SLT is a tax on disposals to landfill and the aim is to compensate for any impact on the environment from unsustainable production and consumption. The rate of SLT will be set by the Scottish Government and the tax will be collected and administered by Revenue Scotland (Scotland's newly established tax authority).

WHAT POWERS WILL SCOTLAND HAVE IN RELATION TO INCOME TAX?

The Scottish Parliament will be granted the power to set a rate of income tax for Scottish resident taxpayers from April 2016. In practice this will work by reducing the general UK income tax rate that is paid by Scottish resident taxpayers by up to ten pence in the pound. Scottish resident taxpayers will then pay an additional Scottish rate to be set by the Scottish Parliament.

HOW WILL THE SCOTTISH RATE OF INCOME TAX BE ADMINISTERED?

This will not be a devolved tax - income tax will continue to be administered by HMRC - eg through the PAYE (Pay As You Earn) system. However, businesses operating PAYE should be aware that some administrative changes may be necessary and ensure that they have the necessary processes in place to manage this.

WILL THERE BE FURTHER DEVOLUTION OF TAX POWERS?

The referendum has shown that there is a clear desire for Scotland to have more autonomy from the UK. David Cameron, Ed Miliband and Nick Clegg all pledged to give the Scottish Parliament greater tax powers if there was a "No" vote and Scotland will be looking to them to honour their promise. It is thought that an independent chair will be immediately appointed to lead a working party to create new tax powers for Scotland and draft legislation will be published in January.

WHAT FURTHER DEVOLUTION CAN WE EXPECT?

It is difficult to say with any certainty. Undoubtedly Scotland will be looking for full devolution of tax powers to Scotland (devo max). Scotland will want, at a minimum, to have full control over income tax and corporation tax rates. However, the UK Parliament will be looking for devolution to take a more middle ground. The scope and form of further devolution could be the subject of intense negotiation over the next few months.

WHO WILL ADMINISTER TAXES IN SCOTLAND?

For the time being, pending further devolution, taxes will continue to be collected and administered by HMRC and

there will be no change for businesses in the way this is done.

The newly established Scottish tax authority, Revenue Scotland, is to be given responsibility for Scotland's devolved taxes. For the moment, it will have responsibility for collecting and administering SLT and LBTT. However, if there is a move towards further devolution in Scotland, it may assume greater administrative responsibility in relation to any such devolved taxes, subject to being granted the power to do so by the UK Parliament. Adequate staffing is obviously required.

WHAT ISSUES SHOULD BUSINESSES BE CONSIDERING?

Issues businesses should be considering include:

- whether they are engaging in land transactions in Scotland and how they will comply with the new LBTT system;
- whether they will be subject to SLT and how they will comply with the new SLT system;
- how they will administer any changes caused by the changes to the Scottish rate of income tax; and
- how any further devolution in the area of taxation might affect them.

If you need any further information or would like further advice on how the changes may affect your business, please do not hesitate to contact a member of the DLA Piper team:



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