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Consultation on devolving powers for a Scottish Building
Safety Levy - Scottish Government consultations - Citizen

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UK & Scottish Governments' consultation: Devolving powers for a Scottish Building Safety Levy: ICAS response

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ICAS response to UK & Scottish Governments' consultation on devolving powers for a Scottish Building Safety Levy

About ICAS

1. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants. We represent over 23,000 members working across the UK and internationally. Our members work in the public and not for profit sectors, business and private practice. Approximately 10,000 of our members are based in Scotland and 10,000 in England. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good.
2. The following submission has been prepared by the ICAS Tax Board. The Tax Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community; it does this with the active input and support of over 60 committee members.

General comments

3. ICAS welcomes the opportunity to feed into the UK & Scottish Governments' work in respect of devolving powers for a Scottish Building Safety Levy. We generally welcome the proposals to devolve the taxing power to Scotland under Section 80B of the Scotland Act 1998 (as amended) which is in line with the Programme for Government announcements made in 2023/24. We have set out below a list of considerations which we consider need to be taken into account regarding this process. Devolution does add complexity for the taxpayer as well as additional accountability for the devolved jurisdiction, so the scope and policy intention for the levy need to be carefully thought through.
4. ICAS also welcomes the opportunity to participate in helping to shape policy, legislative provisions and guidance as an active participator and trusted stakeholder on the forthcoming expert advisory group.
5. We consider it essential to ensure that the legislation and guidance is well publicised to the public and to those providing professional services to their clients in good time. Historically we have found that generally speaking, awareness of Scottish taxes is not high in Scotland¹ and there is a need for improvement of communications by the Scottish Government to ensure this improves, in line with the Scottish Government's own Framework for Tax principles.
6. ICAS, along with other professional bodies and stakeholders, continues to call for care and maintenance provisions in the form of a regular fiscal Bill which allows for a point in time at which all amendments to legislation are carried out rather than undertaking piecemeal changes to tax legislation, which the public as well as tax and legal professionals find difficult to follow and locate. It is much easier to refer to a Finance Act or equivalent when

¹ [ICAS joins forces with CIOT to call for review of the Scottish tax system | ICAS](#)

researching legislative updates than it is to have to search through different provisions and SSIs to ensure one has a correct understanding of the current law.

There have been various examples of ad-hoc changes being made to LBTT in the years since it was introduced, but a current example is the Scottish Aggregates Tax and Devolved Administration (Scotland) Bill, which contains two parts – part one dealing with Aggregates Tax and part two dealing with amendments to Revenue Scotland powers and LBTT-related amendments – i.e. a different tax to Aggregates. If all the changes made in 2023/24 were wrapped up in one Finance Bill, there would be no need to search elsewhere for them, which is more transparent. The more devolved taxes which are introduced, the greater the need for fiscal transparency. The same principles should therefore apply to the Scottish Building Safety Levy and the Revenue Scotland and Tax Powers Act 2014.

Specific comments

Q1) The UK and Scottish Governments would welcome any observations and evidence addressing the criteria set out at paragraphs 4.1 to 4.3 above. In particular, do you agree that devolving the proposed tax power would not impose a disproportionate negative impact on UK macroeconomic policy or impede the single UK market in house building?

ICAS is unable to comment on specific aspects of macroeconomic policy, but we would like to highlight the main considerations that we consider should be discussed by the expert advisory group in due course in relation to tax policy and powers, as follows:

- The policy intention and scope of the tax must be clear and unequivocal to aid transparency ,engagement and compliance;
- The legislation must set out who is to pay the levy in clear terms and who is to benefit from the levy if hypothecation is to take place;
- Exemptions contained in the legislative provisions and guidance must contain anti-avoidance measures to ensure that businesses who are liable to pay the levy do not create artificial structures to avoid paying it;
- The definitions, tax rates and terms used in the legislative provisions and guidance must be clearly explained and would ideally be consistent with those used in England and the other devolved jurisdictions to forestall avoidance behaviours and tax competition;
- The Scottish Government with Revenue Scotland should prepare a tax impact assessment and publish this to ensure there is an understanding of this by the public and business;

- Revenue Scotland must be given the appropriate resources to administer the tax effectively and to police compliance;
- It may be that the Scottish Government, Revenue Scotland and local authorities will need to liaise on the value of the levy in each area of Scotland, which would need to be compared with English local authority charging mechanisms to ensure a fair distribution, maximise investment opportunities and minimise unwanted avoidance behaviours;
- Any penalty regime must exist to aid compliance and not simply be a revenue-raising tool, and any appeals process must be equitable and provide for access to appropriate mediation and the Tax Tribunal in the event of a dispute;
- ICAS welcomes the opportunity to assist with the formulation of legislation and guidance in relation to the levy.

Q2) Bearing in mind there is no option to extend the UK Building Safety Levy to Scotland, do you agree that the power to introduce a Building Safety Levy should be devolved to the Scottish Parliament?

In terms of there being no option to extend the UK Building Safety Levy to Scotland, if the UK Levy is to go ahead as planned, it seems the right thing to do to also devolve the power to Scotland so that there is parity of approach in England and the devolved jurisdictions. Whilst the compliance burden and financial burden would clearly increase for the businesses affected by the levy, the introduction of the SBSL into Scotland would help to address potential avoidance behaviours.



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