Summary: Intervention & Options

Department /Agency: The Scotland Office	Title: Impact Assessment of The Scotland Bill	
Stage: Final	Version: 1	Date: 30 November 2010

Related Publications: The Scotland Bill Command Paper
Serving Scotland Better, The Commission on Scottish Devolution Final Report, June 2009.

Available to view or download at:

http://www.commissiononscottishdevolution.org.uk

Contact for enquiries: Robin Haynes   Telephone: 0131 244 9056

What is the problem under consideration? Why is government intervention necessary?

The Scotland Bill implements the recommendations of the Commission on Scottish Devolution, established in 2007 by majority vote in the Scottish Parliament and supported by the then UK Government. The Commission's remit encompassed reviewing the operation of the 1998 Scotland Act, in the light of experience and including how to increase the financial accountability of the Scottish Parliament by making it responsible for raising a proportion of its budget. The Programme for Government includes the commitment to 'implement the recommendations of the Calman Commission'. The Scotland Bill, if enacted, delivers this commitment. This RIA refers only to the enabling taxation provisions - the remainder of the Bill covers constitutional matters.

What are the policy objectives and the intended effects?

The policy objective is to increase the Scottish Parliament's ability to make autonomous choices that benefit the people of Scotland and to be accountable for these choices. Substantial parts of the Bill address this by re-balancing the boundaries between devolved and reserved policy matters, improving the operation of the Scottish Parliament and amending technical elements of the Scotland Act 1998. The financial accountability part - the focus of the RIA - will deliver this objective by making the Scottish Parliament accountable for raising part of its revenues to compliment its existing total autonomy over spending decisions.

What policy options have been considered? Please justify any preferred option.

The Commission's recommendations were evidence based, their thorough deliberations supported by international expertise and wide based stakeholder consultation. They concluded that delivering financial accountability meant giving tax raising powers to the Scottish Parliament. Their ultimate recommendations are provided in this Bill and centre around building on existing powers - the Scotttish variable rate introduced by the Scotland Act 1998 - and the devolution of two further taxes. The Commission considered every other current UK tax instrument but concluded their devolution would either create significant tax compliance burdens, undermine the UK single market or not deliver financial accountability.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The taxation provisions in the Bill are enabling, providing time to allow for discussion with stakeholders and the Scottish Government on the design and implementation issues. Those discussions will inform the approach to the implementation of the Scottish Income tax. The Scottish Government will ultimately be responsible for the impact on business of the fully devolved taxes.

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Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Michael Moore

.... Date: 30th November, 2010.

Summary: Analysis & Evidence

Policy Option:	Description:

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups'.
One-off (Transition)	Yrs	**This is enabling legislation: accurate estimates of costs are not available until implementation policies are determined**
£ 45 million	7	**Scottish Parliament**: Indicative HMRC total costs (inc. estimated £13 million over current Spending Review period) for Scottish income tax shown, dependent on outstanding policy decisions, including some by Scottish Parliament. Costs of administering devolved taxes depend on future choices by Scottish Parliament.
Average Annual Cost (excluding one-off)		**Employers/Business**: marginal compliance costs will depend upon design of Scottish Income tax and of devolved taxes.
£ 4.2 million		Total Cost (PV) £ TBC

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups'
One-off	Yrs	N/A
£		
Average Annual Benefit (excluding one-off)		
£		Total Benefit (PV) £

Other **key non-monetised benefits** by 'main affected groups' **Scottish Electorate**: Improved democratic choice from having different tax and spending options; **Scottish Parliament**: Increased financial accountability incentivises efficient governance; **UK & Scottish Parliaments**: increased efficiency through greater "yardstick competition" in public service delivery.

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £

What is the geographic coverage of the policy/option?	UK wide
On what date will the policy be implemented?	2016 for income tax, 2015 for rest, subject to preparedness of Scottish Government
Which organisation(s) will enforce the policy?	HMRC for income tax, to be decided for rest.
What is the total annual cost of enforcement for these organisations?	£ TBC
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	N/A
What is the value of the proposed offsetting measure per year?	£ N/A

What is the value of changes in greenhouse gas emissions?			£ NA	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	No	No

Impact on Admin Burdens Baseline (2005 Prices) TBC (Increase - Decrease)

Increase of £ Decrease of £ **Net Impact** £

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base (for summary sheets)

The Scotland Bill

The Scotland Bill has 39 clauses of which 9 set out the finance provisions, including 6 clauses relating to changes to the tax system. The remaining 30 are constitutional and therefore beyond the scope of this RIA. The taxation clauses are enabling and will be implemented by secondary legislation to reflect policies to be developed prior to commencement in 2015. Some of those policies will be beyond the scope of this RIA because they will be determined by the Scottish Parliament.

Description of the Taxation Measures Enabled in the Scotland Bill

The underlying principle of the taxation measures in the Bill is to substitute a proportion of the block grant (the main source of funding for the Scottish Parliament, presently calculated by the "Barnett" formula and worth around £28 billion) with the power for the Scottish Parliament to raise revenues through some taxes.

The Bill will devolve specific tax powers and the corresponding reduction in block grant will be provided for by amending the existing non-statutory arrangements. This will mean the Scottish Parliament has to determine and levy taxes in order to make up its budget. Once implemented, the provisions of the Bill would provide for the Scottish electorate to be provided with choices between different levels of public service provision and different rates of tax. The provisions in the Bill relating to tax are enabling - detailed implementation arrangements will be set out by Order over the coming 4 years. This means that it is not possible to complete a meaningful estimate of the associated costs until such time as this secondary legislation has been developed.

Income tax

The Bill determines that the UK Government would reduce the basic, higher and additional rates of income tax for those defined as Scottish taxpayers by 10 pence in the pound, providing the scope on the Scottish income tax base for the Scottish Parliament to levy its own tax. The Scottish Parliament would determine and set one single rate of income tax across all tax bands, retaining the structure and thresholds of the wider UK income tax system which remains a reserved matter. The Scottish income tax will be collected by HMRC within the UK income tax framework and hence will utilise the existing PAYE and Self Assessment tax collection systems.

The Scottish income tax will apply only to income from earnings, pensions and other non savings sources. The Commission recognised that as income from savings is deducted at source by banks and other similar bodies, devolving the power to vary the savings rate would impose a disproportionate compliance burden on banks in relation to a tax which yields only about one tenth of the total of income tax in Scotland.

The Scotland Bill will provide for the repeal of the Scottish Parliament's existing power to vary the rate of income tax for basic rate taxpayers by +/- 3% (the Scottish variable rate or SVR) provided in the 1998 Scotland Act.

Landfill tax and stamp duty land tax (SDLT)

The Bill provides for the devolution of two other taxes to the Scottish Parliament: stamp duty land tax and landfill tax, again with a corresponding reduction in block grant. These two taxes will cease to apply in Scotland and the Scottish Parliament will be able to levy its own taxes in respect of land transactions in Scotland and in respect of disposals of waste to landfill. The Scottish Parliament may also choose the means of collecting and administering these new taxes - they could elect to enter a contract with HMRC or they could use alternative means.

New taxes

The Scotland Bill also provides for the Scottish Parliament to introduce new taxes, subject to the agreement of the UK Government and Parliament. Consent will be based around an assessment of the proposed taxes against pre-determined criteria set out in the supporting Command Paper. These will be focused on the preservation of the single market in the UK and the avoidance of economic distortions, but ultimately the regulatory impact of such new taxes, and the devolved versions of SDLT and landfill tax, will be a matter wholly for the Scottish Parliament.

Commencement Dates

The commencement date of the finance provisions of the Bill will be determined by Order, but the Government anticipates this will be phased, with SDLT and landfill tax devolved in 2015, depending on the Scottish Parliament's preparedness to operate new devolved taxes, and the Scottish income tax devolved in such a way as to provide for the Scottish Parliament elected in 2015 to take a tax decision to be implemented in the 2016/17 tax year.

Costs Associated with Implementation of a new Scottish income tax

The new Scottish income tax will be implemented so that the Scottish Parliament elected in May 2015 is the first to be required to make a tax decision. This will apply from the beginning of the following tax year - 2016/17. In the intervening period, the UK Government will continue discussions with representative bodies and the Scottish Government to identify the most efficient approach to implementation which will be a matter for secondary legislation. This work has begun already and HMRC has established a number of technical stakeholder groups to look at the issues arising and inform the implementation design upon which final, full impact assessments will be made. Therefore, this impact assessment is not intended to provide a full assessment of all costs, rather it is intended to signal some of the key considerations in the approach to developing the final design and secondary legislation.

There are two forms of cost associated with changes to the tax system – those direct costs derived from any increased tax liabilities and those arising because the new tax creates new administrative requirements. As rehearsed above, the relevant clauses in this bill are those relating to the new Scottish income tax, the devolved taxes applying to acquisitions of interests in land and disposal to landfill and any new taxes the Scottish Parliament chooses to apply that are agreed by the UK Government.

Direct Costs

The direct costs are wholly unquantifiable in this RIA because the rates of tax will be determined in the future by the Scottish Parliament. It is therefore inappropriate to speculate as to whether the Scottish Parliament will wish to apply rates of taxation that are higher, lower or the same as those applying to the rest of the UK.

Compliance costs to business of a Scottish income tax

All employers in the UK will be affected as their payroll systems will need to be able to deal with Scottish taxpayers regardless of where they based. From initial discussions with key stakeholders, we understand that a primary concern relates to the identification of Scottish taxpayers. The definition of a Scottish taxpayer is set out in the Scotland Bill, refining the definitions set out in the 1998 Scotland Act in relation to the Scottish variable rate. The specific concern of employers is met by the intention for HMRC to identify all Scottish taxpayers by prefixing an "S" onto the relevant tax codes.

It is the case that most of the compliance costs to employers associated with the creation of a Scottish income tax have already been met. When the Scotland Act 1998 created the Scottish variable rate (SVR) of income tax, employers and software providers made changes to payroll software so that they could operate a different rate of income tax for those employees who were defined as Scottish taxpayers. As is proposed now, those employees who were identified by HMRC as falling within the definition would be issued with an S prefixed tax code, and employers' software was changed so that it could receive the S prefixed tax codes and operate different rates of income tax against that code. This means that most existing payroll software already provides for a different rate to be operated not only against the basic rate but against the higher rates also. Consequently, five years ahead of the expected commencement date, many employers will already be largely compliant because of the earlier changes performed in readiness for the SVR. This enables the administrative burdens associated with this Bill to be kept to a minimum. This preparedness applies to all payroll software used in the UK, not just in Scotland, so cross border issues, such as would arise with a single employer employing both Scottish and rest of UK taxpayers is already largely accommodated.

However, additional compliance costs may arise if the Scottish Government seek processes that differ from the Scottish rate. The current assumption is that those defined as Scottish taxpayers would pay one single rate of tax on income in each taxable band which would be shown as one single deduction on payslips and P60 forms. If for example, the Scottish Government wishes to apply a higher degree of transparency to the Scottish income tax by requiring employers to indentify amounts paid to the UK Exchequer and to the Scottish Parliament then the compliance burden would change. Until we engage with the devolved administration on this matter, we are not sighted on the likelihood of this eventuality and hence it cannot be included within this RIA.

Other areas that may incur additional compliance costs relate to the treatment of certain tax reliefs and income, for example, gift aid and the tax reliefs available for contributions to pension schemes. As noted above, HMRC are taking forward the consideration of these issues with stakeholders to inform the likely options before enabling legislation is provided. Until the policies underpinning these matters are defined, it is not possible to make estimates around any related compliance and administrative costs.

In summary, it is not possible, nor is it appropriate, to determine the compliance costs arising from the creation of a Scottish income tax from provisions in the Scotland Bill. These costs can only be determined once the approaches to implementation are finalised and brought forward by secondary legislation. The UK Government is therefore currently consulting stakeholders to inform the approach on these matters, looking at issues of fairness, administrative complexity and competitiveness. These discussions already include the devolved administration, HMRC and the Scotland Office.

Administrative Costs to Government of a new Scottish income tax

The administrative costs arising from the changes to the income tax system determined in this Bill will fall to the devolved administration. This is consistent with the established principle that the costs of devolution are born from the Scottish Budget, as set out in existing administrative arrangements. Also, the Scotland Bill, consistent with the provisions of the Scotland Act 1998 for the SVR, enables the Scottish Ministers to reimburse the UK Government for these costs. As the Bill also provides that the Scottish income tax will be collected by HMRC, such payments would be from the Scottish Government to HMRC.

It is not possible at this stage to provide more than a broad indication of the likely start up and ongoing annual recurring costs associated with adapting HMRC systems to collect the new Scottish income tax. This is because the detailed rules for the scheme will be determined following the discussions outlined above and will be examined before secondary legislation is laid as part of a more detailed assessment.

It is anticipated that the Scottish rate of income tax will be introduced from 6 April 2016 and will operate within the UK income tax framework and will aim to minimise burdens. As set out above, there are still a number of key decisions to be taken and practical detail to be worked out. This includes the degree of transparency that the Scottish Government would like to give to the new Scottish rate and whether the Scottish rate of income tax will apply to different reliefs (such as Gift aid and Pensions contributions) and types of income. These issues will determine the extent of the changes to HMRC's computer systems and processes.

The design of the administration and collection system and consequential costs will also be influenced by a number of other factors, such as developments to the wider tax systems and future policy changes. Subject to those uncertainties, an early provisional estimate of the likely changes needed to HMRC's main PAYE and Self Assessment IT systems and the operational processes to support those, based on the current systems and assumptions, are in the region of £40-45m, approximately £13m of which would fall in the Spending Review 2010 period. These estimates are for what might be described as a "low visibility" system, whereby one income tax payment is identified on Scottish taxpayers' payslips and P60's which would allow a single UK PAYE system to be operated. The alternative "high visibility" system would necessitate splitting income taxes paid between Scotland and the UK and would be associated with higher administrative and compliance costs. This choice, referred to above as the degree of transparency, should ultimately be influenced by the devolved administration. The cost estimates provided are based on a low visibility system.

Subject to the above, the Government estimates that after set-up the annual running costs would be around £4.2m per annum. This is for the low visibility option. (These costs exclude additional costs that may be incurred as a result of subjecting different types of relief and income to the Scottish rate. These are currently being discussed with the sector). All costs are at today's prices.

Other Public Sector costs

While the larger portion of the costs of the devolution of these taxation powers to Scotland relates to functions currently exercised by HMRC, it is possible that other public sector costs may arise as a consequence of, for example, the interaction between the tax system and certain benefits operated by the Department for Work and Pensions.

Impact of the Devolution of Stamp Duty Land Tax (SDLT) and Landfill Tax (LfT)

Direct Costs

The direct costs are wholly unquantifiable in this RIA because the rates of tax will be determined in the future by the Scottish Parliament.

Compliance costs to business of devolved stamp duty land tax

The existing tax return for stamp duty land tax already identifies the local authority area in which a land transaction takes place and this will allow HMRC to identify transactions to which SDLT still applies. A separate tax return may be required for a Scottish tax on acquisition of interests in land, depending on the design of the tax and the organisation tasked with its collection. This will be for the Scottish Parliament to determine. No change is needed to the existing SDLT return and there is no reason in principle why the compliance burden for taxpayers purchasing a single property in any part of the UK should increase. There will be a single set of rules for Scotland and one for the rest of the UK.

Those engaged in the purchase of multiple properties both in Scotland and elsewhere in the UK in a single transaction may experience an increase in compliance burden as two tax returns may be needed. In practice, the burden will be on the conveyancing and legal professionals acting for the parties choosing to purchase Scottish property. Scottish land already needs to be registered separately from land in England, Wales and Northern Ireland so any additional compliance burden should be minimal.

The tax return for SDLT collects data for the Valuation Office Agency (VOA) that is used in other parts of the tax system and for wider HMRC compliance work. The Bill provides for the Scottish Executive and Administration to provide this data in future for Scottish transactions from information in their possession. So this should result in no additional burden on taxpayers or their agents.

In 2008/09, there were 97,000 transactions liable for SDLT in Scotland of which 87,000 related to residential properties.

Compliance costs to business of a devolved landfill tax

The current UK-wide tax return for landfill tax does not currently identify the geographical location of the taxable activity. A separate tax return for waste disposed in Scottish landfill may be required, depending on the design of the tax and the organisation that is tasked with collection of the tax. This will be for the Scottish Parliament to determine.

The compliance burden on landfill operators in Scotland will be determined by the rules that are set by the Scottish Parliament arising from their design and administration of the Scottish tax on disposals to landfill. In principle, and subject to the arrangements put in place by the Scottish Parliament, there should be little or no increase in the compliance burden for taxpayers operating at a single site in any part of the UK: there will be a single set of rules for Scotland and one for the rest of the UK. Landfill operators operating sites in both Scotland and elsewhere in the UK may experience an increase in compliance burden as two landfill tax returns may be needed in future where one is needed at present.

There are 270 landfill operators in the UK, and 116 of the 735 landfill sites on the HMRC landfill tax register are in Scotland. Some of these have cross-border ownership.

In summary, neither the administrative costs nor compliance costs associated with the devolution of SDLT and LfT can be estimated, as by its very nature, the future of these taxes in Scotland will be entirely a matter for the Scottish Parliament.

Administrative Costs to Government of devolved stamp duty land tax and Landfill Tax

The administrative costs to Government associated with the devolution of these taxes will fall to the devolved administration who may appoint whatever body they choose, including HMRC, for their administration and collection. The UK Government anticipates that the devolved taxes will be introduced in April 2015 but this will depend on the Scottish Government and Parliament passing the necessary legislation and establishing suitable administrative arrangements. The devolved taxes cannot be introduced until the UK-wide taxes have been dis-applied.

The implementation costs will be heavily dependent on the structure of each of the devolved taxes. Based on HMRC's recent experience, it is estimated that the costs of introducing a new tax by April 2015 would be in the range of £3m to £8m. This estimate is based on the set-up costs (including IT, policy design and customer education) of new taxes introduced in recent years by HMRC and is purely indicative - actual costs will depend on the design of the Scottish taxes and the extent to which they differ from current SDLT and LfT, and will be a matter for negotiation between the Scottish Government and their chosen service provider.

LfT costs about £1.5m each year to administer, yielding £1.1bn from 735 sites across the UK. The administration cost of SDLT UK-wide is estimated to be about £5.5m each year, with a yield of £4.8bn in 2008/09. Neither the administrative or compliance costs associated with the devolution of SDLT and LfT can be estimated as, by their very nature, the future of these devolved taxes will be entirely a matter for the Scottish Parliament.

Impact of new taxes set by the Scottish Parliament

It is currently impossible to quantify the costs or effects of any new taxes that the Scottish Parliament may develop and implement at a future date. The Scotland Bill includes a clause to provide UK Ministers with an Order making power which will enable new tax raising powers to be provided to the Scottish Parliament.

Policy Options and Evidence

The Commission on Scottish Devolution considered in great depth how the financial accountability of the Scottish Parliament might be increased. It was assisted in this by an Independent Expert Group that drew in international expertise and overseas experiences (particularly, Spain, Canada, Australia and Germany). The UK Government considers the findings and supporting analysis to be definitive on this subject, whilst the reports produced by the Independent Expert Group were described as "by far the most detailed examination of devolved taxation ever produced" (The Times 6.6.09).

In analysing the way devolved and sub national governments are funded across the world, the Commission's Independent Expert Group considered that there were three key principles that relate to a funding system:

1. Equity – does the funding system allow levels of spending, hence a distribution of public services, that are accepted as fair?
2. Efficiency – in both the economic and administrative senses: what are the effects of the funding system on the economy (does it impact on macro-economic management; does it introduce distortions into the economy; are its results stable and predictable), and is it simple or complex to administer and explain?

3. Accountability – does the devolved body have the autonomy to make spending and taxation decisions for which the electorate can hold it accountable?

In looking at the way devolved and sub-national governments are financed throughout the developed world, the Commission agreed with the findings of the Independent Expert Group that there are three principal methods; grant based systems, tax assignment or tax devolution.

Grant-based systems, such as the current system used to fund the Devolved Administrations in Northern Ireland, Wales and Scotland. They are based on central government allocating resources to different parts of the country in accordance with their priorities, such as the equitable provision of public services. Centrally collected taxation, allocated by government grant to different parts of the country, is a pooling of resources, to be used to meet needs and risks as they emerge at different times in different places.

Grants may address issues of both “vertical” and “horizontal” fiscal equalisation. That is to say, they can make up the “vertical” gap between a sub-national government's tax-raising powers and its spending responsibilities, which is seen in many nations, and they can also allow national governments to redistribute resources “horizontally” across a country to equalise the effects of differing taxable capacity or spending need. Grant-based systems are efficient in terms of tax competition, assist with macro-economic management, and allow sub-national governments predictable revenues. When compared against the broad principles set out above, a grant-based system can be used to deliver equity.

Tax assignment involves allocating a share of tax revenues from some or all national taxes to devolved or sub-national governments. These would most obviously be the tax revenues raised in the relevant part of the nation. Tax assignment can provide funding in a way that supports economic and administrative efficiency. It does not make governments fiscally accountable as they cannot determine tax rates, and it exposes them to risks of falling revenues that they have no capacity to manage.

In the UK context, tax assignment presents serious practical challenges. Most Scottish tax revenues are not separately identified. In an integrated economy, these can be quite difficult to define – for example, should all the corporation tax revenue from a company based in Scotland be assigned to Scotland, even if profits are generated by business in England? Effort and cost would be involved in developing assignment systems. The complexity might be reduced by using simpler principles of assignment, such as population or other formula share, though that might dilute the incentive effect.

Tax devolution is when devolved or sub-national Governments set and raise at least some tax revenues and so exercise some fiscal responsibility. Tax devolution is the funding mechanism that can best deliver accountability. It should enable voters to see the effect of the Parliament's decisions on spending reflected in their tax bills, as well as on the services they receive. Additionally, flexibility in relation to taxation might be useful as a policy instrument. Tax devolution is not necessarily consistent with the principle of equity because spending levels across regions are influenced by the distribution of taxable capacity, rather than spending need. Tax devolution also compromises the principle of efficiency because differential tax rates may cause businesses or other taxpayers to take decisions based only on tax considerations.

The Commission's approach was therefore to seek to move across the spectrum from a near total grant based system of funding, with its inherent scope to deliver equity and efficiency but not accountability, to a mixed funding system based on block grant and the devolution of some taxes. In reaching this, the Commission were mindful of its detailed assessment of the desired relationship between Scotland and the rest of the UK, given the advice from its Independent Expert Group that the chosen financing system had to support the desired constitutional form, and not vice versa.

It then considered the options for which taxes were suitable for devolution. In considering this, it determined to preserve as far as possible the unified UK tax system so as to avoid administrative inefficiencies being created. It also wished to avoid creating economic distortions by the devolution of taxes. Together, this meant that the principal taxes suitable for devolution were those applying to physically fixed tax bases. For these reasons, the Commission dismissed the devolution of corporation tax, vehicle excise duty, National Insurance Contributions (especially employer, but also given the continuing linkage with the UK-wide social security system), alcohol and tobacco duties, fuel duty, VAT (which is also governed by EU rules), capital gains tax, betting and gaming duties, inheritance tax, insurance premium tax and taxes applying to offshore oil and gas production.

The taxes it did consider suitable for devolution were air passenger duty, landfill tax, aggregates levy and stamp duty land tax as they were all based on physical locations, as well as providing fiscal levers that were consistent with Parliament's existing powers.

In conclusion, the UK Government recognises that it is not possible to deliver additional accountability to the Scottish Parliament without incurring some administrative costs. It is confident that the means of achieving this, set out in the enabling powers of the Scotland Bill, represents the most efficient way of doing so in terms of the likely costs incurred and also in supporting the desired constitutional objectives. The greater accountability associated with the devolution of taxes and the requirement for the Scottish Parliament to raise a proportion of the money it spends should, on the basis of established economic literature, incentivise greater efficiencies in the way it provides public services. As comparisons are made between the differing approaches in Scotland and the rest of the UK, the UK Parliament and the other devolved administrations will be subjected to greater yardstick competition, hence potentially incentivising greater efficiencies in governance elsewhere in the UK.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	Yes	Yes
Human Rights	Yes	Yes
Rural Proofing	No	No

NOTE:

Initial indications are that there will not be adverse impacts. However, the relevant testing, especially Competition assessment, Small Firms Impact test and Rural Proofing will be developed as the implementing legislation is progressed.

Income tax – Gender impact

The existence of different rates of income tax in Scotland compared to the rest of the UK would be associated with potential distributional and gender effects. A larger proportion of Scottish tax payers are basic rate tax payers than in the UK as a whole. Although the Scotland Bill intentionally seeks to retain the redistributive nature of the UK income tax system in Scotland, the same marginal change to the basic tax rate is a greater change to the proportion of tax paid by a basic rate taxpayer than a higher rate tax payer. Hence, if the Scottish Parliament applied a rate of income tax in Scotland that resulted in an effective lower overall rate of income tax (the effective rate in Scotland = [the UK rate less 10p] + [the chosen Scottish rate]), then those on lower incomes would receive a greater proportionate benefit than higher rate tax payers (and vice versa if the overall rate of tax in Scotland was higher).

Additionally, a higher proportion of women are lower rate tax payers than men, introducing a potential gender effect to variations in the rate of income tax by the Scottish Parliament. 94% of Scottish female tax payers are on incomes of £30,000 or less compared to 87.5% of male tax payers across the UK. Hence, a higher effective rate of taxation in Scotland would result in more female taxpayers paying a higher proportion of their income in tax than males and vice versa for lower effective rates.

As noted above, these effects are entirely determined by the rate of tax applied chosen by the Scottish Parliament and could have positive or negative effects, depending on the chosen rate. Hence they cannot be assessed or quantified in this RIA.

European Convention on Human Rights

It is settled law that Convention rights apply in the context of taxation. The most important Convention right in terms of taxation is Article 1 Protocol 1 ("A1P1"): the right to peaceful enjoyment of possessions. Taxation is, in principle, an interference with the right guaranteed by the first paragraph of A1P1, since it deprives the person concerned of a possession, namely the amount of money which must be paid. However, this basic right is not absolute. The second paragraph of A1P1 expressly provides that the State may enforce such laws as it deems necessary to secure the payment of taxes or other contributions. The European Court of Human Rights has repeatedly indicated that Contracting states enjoy a very wide margin of appreciation in implementing policies in the area of taxation.

It is considered that wide margin of appreciation clearly includes whether or not to devolve to a regional government the discretion to establish its own rates of tax. Indeed, there is nothing particularly novel in contracting States having variable tax rates and mechanisms set by infra-State authorities - it is a well established feature of the fiscal systems of a number of countries.

In addition, taxation regimes can sometimes interfere with Article 6 rights (where penalties are imposed for non-compliance) or Article 8 rights (as a result of the tax authority's powers to require disclosure of information). These are not engaged in the Scotland Bill. In relation to income tax existing powers will be utilised. Those powers are considered to be compatible with articles 6 and 8. In relation to the other devolved taxes penalties and information requirements will be a matter for the Scottish Parliament.

Finally, the possible impact of Article 14 ("A14") has been considered. This Article prohibits discrimination in the enjoyment of Convention rights. Devolving landfill tax and stamp duty land tax to Scotland, and creating a new Scottish rate of income tax, will create a difference in treatment between Scottish taxpayers and other UK taxpayers with respect to their property rights under A1P1. A14 is therefore prima facie engaged. However, as noted above, national authorities have a wide margin of appreciation with respect to taxation. It is considered that it is well within the state's margin of appreciation to devolve power to the Scottish Parliament, including authority over tax.