

# Air Departure Tax (Scotland) Bill

---

## Policy memorandum

### Introduction

1. As required under Rule 9.3.3 of the Parliament's Standing Orders, this Policy Memorandum is published to accompany the Air Departure Tax (Scotland) Bill introduced in the Scottish Parliament on 19 December 2016. The contents are entirely the responsibility of the Scottish Government and have not been endorsed by the Parliament.

2. The following other accompanying documents are published separately:

- statements on legislative competence by the Presiding Officer and the Cabinet Secretary for Finance and the Constitution (Derek Mackay MSP) (SP Bill 3–LC);
- a Financial Memorandum (SP Bill 3–FM);
- Explanatory Notes (SP Bill 3–EN).

### Policy objectives of the Bill

#### Overview

3. The Bill is brought forward as a consequence of measures enacted in the Scotland Act 2016<sup>1</sup> (“the 2016 Act”). Following the commencement of section 17 of the 2016 Act on 23 May 2016, the Scottish Parliament now has the power under section 80L of the Scotland Act 1998<sup>2</sup> (“the 1998 Act”)

---

<sup>1</sup>

<http://www.legislation.gov.uk/ukpga/2016/11/part/2/crossheading/devolved-taxes>

<sup>2</sup> <http://www.legislation.gov.uk/ukpga/1998/46/part/4A/chapter/5>

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

to legislate for a tax which will replace UK Air Passenger Duty (“APD”) in Scotland.

4. The Bill makes provision for Air Departure Tax (“ADT”), a tax to be charged on the carriage of chargeable passengers on chargeable aircraft by air from airports in Scotland. The tax is to be payable by aircraft operators. Under paragraph 26 of the agreement reached between the Scottish Government and UK Government<sup>3</sup>, APD will cease to apply in Scotland from 1 April 2018 and, if this Bill is enacted, ADT will replace it from that date. The provisions of the 2016 Act which disapply the existing APD regime in Scotland will be brought into force with effect from 1 April 2018 by regulations laid by Her Majesty’s Treasury in the UK Parliament.

5. At that point, under the terms of the fiscal framework the Scottish Government’s block grant will be reduced to reflect the devolution of competence to impose an air passenger tax from 1 April 2018 onwards, with the receipts from any such tax going into the Scottish Consolidated Fund. The reduction will be set equal to the amount of estimated APD generated in Scotland in the year immediately prior to it being disapplied in Scotland (2017-18). In subsequent years this amount will be indexed in line with the growth in comparable receipts per person in the rest of the UK (see paragraphs 15-19 of the fiscal framework agreement for an overview of this indexation mechanism). The net effect on the total Scottish budget therefore will be the amount of tax receipts from ADT less the amount of the reduction to Scotland’s block grant.

6. Revenue Scotland<sup>4</sup>, Scotland’s tax authority for devolved taxes, will be responsible for the collection and management of ADT, as it has been since 1 April 2015 for the collection and management of Scotland’s two current devolved taxes, Land and Buildings Transaction Tax (“LBTT”) and Scottish Landfill Tax (“SLfT”). The proposed legislative framework for the collection and management of ADT consists of the provisions in Part 4 of the Bill and the Revenue Scotland and Tax Powers Act 2014<sup>5</sup> (“RSTPA 2014”), as amended by schedule 2 of the Bill. The RSTPA 2014, amongst other things, provides the general collection and management framework for Scotland’s devolved taxes.

---

<sup>3</sup> <http://www.gov.scot/Publications/2016/02/3623>

<sup>4</sup> <https://www.revenue.scot/>

<sup>5</sup> <http://www.legislation.gov.uk/asp/2014/16/contents>

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

## Strategic objectives

7. The Scottish Government has long called for the devolution of APD (one of the highest taxes of its kind in the world) to the Scottish Parliament, believing the tax to be an increasing burden on airports, airlines and passengers which holds back air route development.

8. Now that powers over APD in Scotland have been devolved to the Scottish Parliament, the Scottish Government will design and structure ADT in a way which boosts Scotland's air connectivity and economic competitiveness, encouraging the establishment of new routes which will enhance business connectivity and tourism. The Scottish Government is also keen to create an environment which encourages airlines to base more aircraft in Scotland, which not only creates new routes but creates new jobs, including flight crew, cabin crew, engineering and ancillary support roles. Scotland's airports are competing on a world stage to secure new routes and capacity. Cutting the tax burden helps ensure a more level playing field with many other European airports competing to secure the same airlines and similar routes.

9. The strategic context for the Scottish Government's aims can be found in Scotland's Economic Strategy<sup>6</sup> published on 3 March 2015, which sets out the ambition to create a more cohesive and resilient economy that improves the opportunities, life chances and wellbeing of every citizen in Scotland. Internationalisation is one of the four priorities for sustainable growth which underpins this strategy.

10. A fundamental part of the Scottish Government's plans for ADT is a commitment to a 50% reduction in the overall tax burden by the end of the fifth session of the Scottish Parliament, starting to implement that reduction in 1 April 2018 when it is proposed that the tax will come into effect, and also abolishing the tax when resources allow. This would help to generate new direct air routes, sustain existing routes and increase inbound tourism. The Bill as introduced does not set out the tax bands or tax rate amounts which underpin the delivery of the planned 50% reduction in the overall tax burden. Detail on tax bands and tax rate amounts will be delivered at a later date.

---

<sup>6</sup> <http://www.gov.scot/Resource/0047/00472389.pdf>

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

## Scottish approach to taxation

11. Scotland's devolved taxes are underpinned by a distinctive Scottish approach to taxation, which has shaped the establishment and activities of Revenue Scotland as Scotland's devolved tax authority, informed the approach to the design and implementation of the primary and secondary legislation required for the LBTT and SLfT regimes and, where appropriate, has also informed the Scottish Government's plans for ADT.

12. The Scottish approach to taxation has three key features:

- Adam Smith's four principles or 'maxims' of certainty, convenience, efficiency and proportionality to the ability to pay. Although these maxims were first set out in the 18th century, they have stood the test of time and point towards a system that will meet the needs of a modern, 21st century Scotland;
- a collaborative approach to stakeholder engagement. Aligned with its broad approach and principles, Scotland's devolved tax system has been and will continue to be supported by regular and engaged consultation with taxpayers, industry representatives and professional bodies; and
- taking a tough but fair approach to tax avoidance based on straightforward, common sense tests that ordinary taxpayers can understand and endorse. The Scottish Government wants to encourage a culture of responsible taxpaying where the burden of tax is shared equally and people and companies pay their tax as the Parliament intended.

## Background

13. APD is a duty of excise which is levied on the carriage, from a UK airport, of chargeable passengers on chargeable aircraft. It becomes due when a flight with chargeable passengers occurs and is payable by the operator of the aircraft. The amount due is dependent on the final destination and class of travel of the chargeable passenger. Since being introduced in 1994 it has undergone significant changes. The current primary APD legislation can be found in the Finance Act 1994 (sections 28-44 inclusive and schedules 5A and 6), as amended. Her Majesty's Revenue and Customs ("HMRC") is responsible for collecting and managing APD.

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

14. The devolution of APD formed one of the recommendations of the Calman Commission report published on 15 June 2009<sup>7</sup>, but the then UK Government did not accept that recommendation and APD was not devolved in the subsequent Scotland Act 2012.

15. The Smith Commission convened following the 2014 Scottish independence referendum published its report on 27 November 2014<sup>8</sup> recommending, amongst other things, further devolution over elements of taxation and public spending to the Scottish Parliament. Paragraph 86 of the report recommended that “the power to charge tax on air passengers leaving Scottish airports will be devolved to the Scottish Parliament. The Scottish Government will be free to make its own arrangements with regard to the design and collection of any replacement tax, including consideration of the environmental impact.”

16. This proposal, and others contained in that report, were taken forward in the 2016 Act which received Royal Assent on 23 March 2016. Following the commencement of section 17 of the 2016 Act on 23 May 2016, the Scottish Parliament now has the power to legislate for a tax which will replace APD in Scotland.

17. In its Programme for Government 2016-17<sup>9</sup> the Scottish Government announced that a Bill would be introduced in the first year of the fifth session of the Scottish Parliament establishing a tax to replace APD in Scotland. It also reaffirmed the Scottish Government’s long-standing commitment to reduce the overall burden of the APD replacement tax by 50% by the end of the fifth session of the Scottish Parliament (starting that reduction on 1 April 2018 when the replacement tax comes into effect), and to also abolish the tax when resources allow.

## Alternative approaches

18. The first potential option is to ‘do nothing’ – i.e. do not replace APD once it is disappplied in Scotland from 1 April 2018. This would mean that

---

<sup>7</sup> [Serving Scotland Better: Scotland and the United Kingdom in the 21st Century - Final Report – June 2009](#)

<sup>8</sup> [http://webarchive.nationalarchives.gov.uk/20151202171017/http://www.smith-commission.scot/wp-content/uploads/2014/11/The\\_Smith\\_Commission\\_Report-1.pdf](http://webarchive.nationalarchives.gov.uk/20151202171017/http://www.smith-commission.scot/wp-content/uploads/2014/11/The_Smith_Commission_Report-1.pdf)

<sup>9</sup> <http://www.gov.scot/Publications/2016/09/2860/5>

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

from 1 April 2018 aircraft operators would no longer be liable to a tax charged on the carriage of passengers by air from airports in Scotland. However, as there would be an adjustment in the Scottish block grant payment to reflect the fact that APD has been disapplied in Scotland, such an option would result in an immediate material reduction in the Scottish budget. The Scottish Government is committed to abolishing ADT when resources allow, but in the meantime will seek to reduce the overall tax burden of ADT by 50% by the end of the fifth session of the Scottish Parliament, starting that reduction from 1 April 2018.

19. The second option is to provide for a replacement tax, ADT, for which Scottish legislation is needed. As already outlined, under the terms of the 2016 Act APD will be disapplied in Scotland by regulations laid by Her Majesty's Treasury in the UK Parliament and, under the terms of the fiscal framework agreed between the Scottish Government and UK Government, this will take place from 1 April 2018. A Bill is required to be passed by the Scottish Parliament before this date in order for ADT to come into force. There are no other practical options.

20. Some of the provisions in the Bill are intended to replicate the effect of parts of the existing APD legislation. In other areas, mainly in provisions relating to how the tax is collected and managed, the Scottish Government has decided to make changes which it believes are more tailored to the Adam Smith principles which underpin the Scottish Government's approach to taxation. In all instances where a policy decision was required, either to replicate or to change an element of the existing system, consideration was given to the policy alternatives and a decision was made on the basis of the available evidence. At the appropriate points, this Memorandum makes reference to these alternative approaches and explains why the Scottish Government has reached the decision that it has.

## Consultation

21. Public discussion and debate on the policy proposals underpinning the provisions of this Bill began with the Scottish Government's publication of a consultation document, "A consultation on a Scottish replacement to Air Passenger Duty"<sup>10</sup>, on 14 March 2016. The consultation document included 34 questions (with many of these split into both quantitative and qualitative sub-questions), as follows:

---

<sup>10</sup> <http://www.gov.scot/Publications/2016/03/3238/0>

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

- Questions 1-2 sought views on the Scottish Government's strategic and policy objectives for improving Scotland's air connectivity, and how a tax to replace APD in Scotland could help achieve these objectives;
- Questions 3-8 sought views on the scope of the tax and how it should be structured, including: the definitions of chargeable passenger and chargeable aircraft; what the charging model for the tax should be; the tax banding and tax rates structure; and how and when the planned 50% reduction in the overall burden of the tax should be implemented.
- Questions 9-12 sought views on which aircraft and passenger tax exemptions should be provided in relation to ADT;
- Questions 13-14 sought views on whether the current rules determining which flights are to be treated as connected for APD purposes should be retained under ADT, and how double taxation (under both ADT and APD) on these types of flights could be avoided after 1 April 2018;
- Questions 15-34 sought views on how the tax should be collected and managed, including: tax registration; use of fiscal and administrative representatives; the tax return and payment of tax; record keeping; tax evasion and tax avoidance; investigatory powers; civil penalties; interest; dispute resolution.

22. In addition to this public policy consultation, the Scottish Government established a stakeholder forum on 6 August 2015 to provide expert input into the development of policy and legislative proposals for ADT. Chaired by the Cabinet Secretary for Finance and the Constitution, membership of the stakeholder forum is formed from a broad range of sectors including airlines, airports, travel organisations, business representatives, tax accountancy and legal professional bodies and environmental organisations.

23. Papers and notes of all forum meetings, as well as the current terms of reference, are available on the Scottish Government website.<sup>11</sup>

---

11

<http://www.gov.scot/Topics/Government/Finance/scottishapproach/airpassengerduty/APDstakeholderforum>

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

## Summary of consultation responses

24. The Scottish Government received 160 responses to the consultation. Of these, 76 were from group respondents and 84 from individuals. A consultation analysis report and the responses received to the consultation (other than those where respondents asked for their comments to be kept confidential) were published on the Scottish Government's Citizen Space platform<sup>12</sup> on 29 July 2016. The Scottish Government is grateful to all who contributed their time, input and assistance to the consultation process, which was very helpful in shaping the content of the Bill.

25. Issues raised during the consultation that are relevant to specific measures in the Bill are discussed in more detail below. The consultation generated a range of views, and a summary of the responses received is set out below.

### Scope and structure of the tax (Chapter 3 of the consultation paper)

26. A large majority of those providing a view agreed that the current APD definitions of 'chargeable passenger' and 'chargeable aircraft', and the per-passenger charging model, should be retained for ADT. Those in favour of the current definitions and charging model referred to these being familiar to and well understood by airlines and others, having a proven simple and effective approach for administration and compliance, and the importance of minimising the administrative burden for current APD taxpayers in Scotland.

27. Most of those who disagreed with retention of the current definitions and the charging model were individual respondents. This included some whose objection was based on a preference for the removal of all tax charges immediately once powers over APD are transferred to the Scottish Parliament. However, a substantial number of those specifically objecting to the per-passenger charging model suggested that it may be appropriate to consider alternative models. This included some who expressed a preference for taxation of air travel to seek to reduce carbon emissions.

28. The majority of those providing a view agreed that the current APD destination-based banding system should be retained for ADT. Reflecting

---

<sup>12</sup> <https://consult.scotland.gov.uk/fiscal-responsibility/air-passenger-duty>



This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

views on definitions and charging models, most of these respondents referred to the destination-banding system being well understood, simple and effective, and its retention minimising disruption to taxpayers' systems. Most suggested that banding should be based on the distance between capital cities, where this is measured from Edinburgh (and with an increase in the band A distance threshold to allow for this change). However, a small number of those who supported destination banding suggested bands based on a specific set of destinations, rather than distance.

29. More than a quarter of respondents disagreed with the retention of current destination-based banding, most of these being individual respondents. This included some respondents who indicated a preference for a banding system with a closer link to the environmental impacts of flights. A number of specific alternatives were suggested.

30. The majority of those providing a view agreed that the current APD rates system should be retained for ADT. Again, for most respondents this support was based on the rate structure being familiar to and well understood by airlines and others, including suggestions that consistency with the current APD structure will be important for future administration of the two taxes. These respondents also saw the rates structure as relevant to passengers' experience (and ability to pay) across flight classes. Most of those in favour of the current rate structure felt that the rate definitions are appropriate to the Scottish market, and few suggested a need for change to the definitions.

31. A quarter of respondents disagreed with the retention of the current APD rates system, and individuals accounted for the large majority of these respondents. The most common reason given for an objection to the current rates system was a preference for a replacement tax which addresses the environmental impact of air travel, and/or takes greater account of passengers' ability to pay.

#### Tax exemptions (Chapter 4 of the consultation paper)

32. A large majority of those providing a view agreed that the current APD passenger and flight exemptions should be retained for ADT. Those in favour described the current exemptions as having been beneficial for air travel across the UK. Current exemptions for children under the age of 16, and for connecting flights and transit passengers, were seen as particularly

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

significant. The importance of minimising complexity for taxpayers and potential confusion for customers was also highlighted.

33. Around one in five of those providing a view indicated that they disagreed with the retention of current passenger and/or flight exemptions; individuals accounted for nearly all of these respondents. Most of those objecting to the current exemptions suggested specific reductions in current exemptions and/or broader changes to the approach to ADT. This included several respondents who wished to see a significant reduction in flight exemptions as part of an approach which linked taxation of air travel to environmental impacts.

34. A large majority of those giving a view said that the current ADT exemption for flights from the Highland and Islands region should be retained for ADT. Most of these respondents made reference to the social and economic benefits of air connectivity, and specifically in relation to the low population density and relative remoteness of the region. Around one in five respondents indicated that they wished to see the current Highland and Islands exemption modified. Most of these respondents suggested that the “lifeline” status could not be applied to all flights from the region, and wished to see a reduction or removal of the exemption for Highlands and Islands flights. This included a specific focus on flights from Inverness to destinations outwith the Highlands and Islands region (referred to as “ski and sun” destinations).

### Connected flights (Chapter 5 of the consultation paper)

35. The majority of those giving a view agreed that the current ADT connected flight rules should be retained for ADT. Most of these respondents re-stated the benefits set out in the consultation document, including for example protecting the status of UK hub airports, access to which is and will remain strategically important for Scotland. Some also emphasised the importance of maximising consistency with ADT to minimise confusion for passengers and ensure administrative simplicity for taxpayers.

36. Around a quarter of respondents indicated that they disagreed with retention of the current ADT connected flight rules. Most of these respondents saw the connected flight rules as inequitable, and cited specific examples where the application of an ADT exemption across all parts of a journey was seen as unfair. A substantial proportion of those who

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

did not support retention of the current connected flight rules wished to see the tax applied to subsequent parts of all connected flights.

37. A minority of respondents commented on the circumstances where “double taxation” under both APD and ADT might apply after 1 April 2018, when ADT comes into effect in Scotland and APD is disapplied. Some of these respondents suggested that this issue would be minimised if the current connected flight rules are retained – although it was also suggested that the extent of any double taxation would also be dependent on decisions taken by the UK Government.

38. However, respondents referred to a range of specific examples where double taxation is currently an issue and/or where the introduction of ADT could exacerbate the issue. These respondents most commonly referred to passengers purchasing separate tickets for un-connected flights currently being subject to a higher APD charge than those able to purchase a single through ticket. This was raised as a specific issue in the context of the growing role played by low-cost operators reliant on point-to-point tickets and where connected flights are not available. In this context, a small number of respondents suggested that an agreement is made with the UK Government on circumstances where the principle of connected flight rules could be applied to un-connected flights.

## Tax collection and management (Chapters 6 to 14 of the consultation paper)

39. The consultation sought views on a range of other issues regarding the collection and management of ADT. Relatively few respondents commented on these aspects of the consultation document, possibly reflecting the extent to which proposals for the collection and management of ADT are most relevant to aircraft operators, who will be liable to account for and pay the tax.

40. The majority of those providing comment agreed with the range of proposals set out in the consultation document relating to the collection and management of ADT. This included the proposed approach for registering for ADT, the tax return and payment arrangements, record keeping, tackling tax avoidance and tax evasion, investigatory and enforcement powers, civil penalties, interest and dispute resolution. To the extent that these proposals were based on approaches to APD or other currently devolved taxes, respondents saw benefits in these approaches having

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

proven effective to date and in simplifying compliance for taxpayers currently subject to APD.

41. For those respondents who did not support aspects of the proposed approach to the administration of ADT, this was most commonly linked to an objection to the Scottish Government's proposed 50% reduction in the overall tax burden by the end of the fifth session of the Scottish Parliament. Few respondents suggested changes to specific proposals set out in the consultation document, and where changes were proposed by respondents these were typically for relatively minor modifications.

## Bill contents

42. The Bill comprises 42 sections and three schedules. The sections are arranged in five Parts, as follows:

- Part 1 provides for a tax charged on the carriage of passengers on flights that begin in Scotland;
- Part 2 sets out the key concepts underlying the tax, including identifying the passengers and aircraft in respect of which the tax will be charged;
- Part 3 sets out the tax rates structure, and provides for tax bands and tax rate amounts to be set by regulations;
- Part 4 provides for administrative matters relating to the payment, collection and management of the tax, including registration, tax returns, a power to obtain security for payment of the tax and a requirement for aircraft operators based outside the European Economic Area (EEA) to appoint EEA-based tax representatives;
- Part 5 contains final provisions, including an index of defined expressions, Crown application, subordinate legislation, ancillary and commencement powers.

43. Schedule 1 of the Bill sets out the rules for determining which flights are to be treated as connected for ADT purposes. Schedule 2 sets out a number of consequential and technical amendments to the RSTPA 2014. Schedule 3 provides an index of all terms and expressions that are defined or otherwise explained in the Bill.

44. Detail on passenger exemptions (see paragraph 50), aircraft exemptions (see paragraph 54), tax bands and tax rate amounts (see

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

paragraphs 10 and 56) will be delivered at a later date. Minor amendments will also be required to three subordinate legislation instruments made under the RSTPA 2014 to reflect the introduction of ADT – The Revenue Scotland and Tax Powers Act (Involved Third Party) Order 2015, SSI 2015/37; The Revenue Scotland and Tax Powers Act (Interest on Unpaid Tax and Interest Rates in General) Regulations 2015, SSI 2015/128; The Revenue Scotland and Tax Powers Act (Record Keeping) Regulations 2015, SSI 2015/130.

## Part 1 – air departure tax

### Overview of policy objectives

45. Part 1 contains only one section, which establishes that there is to be a tax charged on the carriage of passengers on any flight that begins at an airport in Scotland. The tax will apply only in relation to the carriage of chargeable passengers on chargeable aircraft, and is to be payable by the aircraft operator. Revenue Scotland is to be responsible for the collection and management of the tax.

### Alternative approaches

46. As set out in paragraph 18, although the Scottish Government plans to abolish the tax when resources allow, the Scottish Government has ruled out the option of not legislating for a replacement tax at the point APD is disapplied in Scotland on 1 April 2018. Therefore section 1(1) of the Bill broadly reflects the scope of the powers devolved to the Scottish Parliament under section 80L of the 1998 Act.

47. Revenue Scotland's general function, established by section 3(1) of the RSTPA 2014, is the collection and management of devolved taxes in Scotland, and it has been responsible for collecting and managing LBTT and SLfT since 1 April 2015. As part of the preparations for the programme to prepare Revenue Scotland for its collection and management of ADT, the organisation worked with a group of aircraft operators, HMRC and Scottish Government officials to:

- identify the range of feasible options for the collection and management of ADT in Scotland from 1 April 2018;
- assess the benefits, risks and costs of each of the options for collecting ADT; and
- establish the preferred option for collecting ADT and demonstrate that the proposed scheme is deliverable.

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

48. Revenue Scotland's ADT Administration Programme team will work collaboratively with aircraft operators to ensure that the administrative arrangements and guidance for ADT are, in keeping with the Adam Smith principles, convenient, efficient and user-friendly for taxpayers.

## Consultation

49. No consultation on these matters was sought or required, given that the scope of ADT mirrors the extent of the powers devolved to the Scottish Parliament and Revenue Scotland is the body with a statutory function to collect and manage devolved taxes in Scotland.

## Part 2 – key concepts

### Overview of policy objectives

#### Chargeable passengers and non-chargeable passengers (section 2)

50. The Bill largely provides for the same chargeable passenger definition for ADT as is used under APD. Every person on a flight beginning at an airport in Scotland is a chargeable passenger unless the person is exempt because they are working during the flight (see below) or they are a non-chargeable passenger. Detail on which passengers are non-chargeable passengers for the purposes of ADT will be delivered at a later date.

51. A person working during the flight includes: a member of the flight crew; a cabin attendant; a person ensuring the hygienic preparation and handling of food and drink (such as a cook); a person carrying out work relating to the safety or security of the aircraft or of passengers (such as a member of staff escorting another passenger); a person carrying out repairs or maintenance on the aircraft (such as an engineer). The Scottish Government considers that it would be undesirable and unreasonable to apply a tax charge to an aircraft operator for the carriage of members of their staff who are working during the flight.

52. Although not explicitly categorised as a passenger exemption, section 11 of the Bill provides that a person's flight is to be regarded as beginning when the person first boards the aircraft and ending when the person finally disembarks from the aircraft. This means that a flight does not end, nor a new flight begin, if for example a person disembarks from an aircraft temporarily while it refuels. The Scottish Government considers that this

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

provision is necessary in order to avoid ADT being charged on the carriage of passengers by air from a Scottish airport where the aircraft in question has only stopped off temporarily at that airport mid-journey before then carrying on to its final destination.

### Chargeable aircraft and non-chargeable aircraft (section 3)

53. The Bill largely provides for the same chargeable aircraft definition for ADT as is used under APD. A chargeable aircraft is an aircraft which:

- is a fixed-wing aircraft designed or adapted to carry persons in addition to the flight crew. This means that rotary-based aircraft such as helicopters, and fixed-wing aircraft not designed or equipped to carry passengers, are exempt;
- has a maximum take-off weight of 5.7 tonnes or more. Both the European Aviation Safety Agency and the US Federal Aviation Administration consider that aircraft above this maximum take-off weight threshold are “large aircraft”; and
- is fuelled by kerosene (or Avtur, aviation turbine fuel, as it is more commonly called – typically used in jet aircraft powered by gas-turbine engines). This means that aircraft fuelled with Avgas (used for piston engine aircraft) or which are electric-powered are exempt.

54. Definitions of types of aircraft that are to be treated as non-chargeable aircraft for the purposes of ADT, and therefore exempt, will be delivered at a later date.

### Consultation

55. The retention under ADT of the same chargeable passenger and chargeable aircraft definitions used under APD received strong support (90% agreement) from respondents to the Scottish Government’s consultation paper. A large majority of respondents providing further comment in favour of retaining these definitions indicated that this support was based on these definitions having proven a relatively simple structure for APD in terms of administration and compliance.

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

## Part 3 – tax rates

### Overview of policy objectives

56. The Bill largely provides for the same tax rates structure for ADT as is used under APD, on the basis that this: has strong stakeholder support (from both respondents to the Scottish Government’s policy consultation paper and members of the stakeholder forum); has proven to be a simple and efficient model for APD; is familiar to current APD taxpayers; and provides a structure whereby tax rate amounts can be set broadly on a basis of proportionality to the ability to pay, one of Adam Smith’s four principles which form part of the Scottish Government’s approach to taxation (see paragraph 12). Detail on tax bands and tax rate amounts will be delivered at a later date.

57. Tax rates are determined by the category or class of travel. There are three categories which apply as follows:

- as long as the conditions of the special category are not met, a “standard” category applies where the passenger is carried in the lowest class of travel on the flight (typically economy class), unless the seat pitch (the distance between a fixed point on one seat and the same fixed point on the seat immediately in front) exceeds 1.016 metres or 40 inches, in which case, whether there is one or more than one class of travel, the premium category applies.
- a “premium” category applies where the passenger is carried in any class of travel other than the lowest (typically premium economy class, first class or business class), or where the seat pitch exceeds 1.016 metres or 40 inches, unless the conditions for the special category below are met.
- a “special” category applies where the passenger is carried on an aircraft which has a maximum take-off weight of 20 tonnes or more and is equipped to carry no more than 18 passengers (not including the flight crew or cabin attendants).

### Alternative approaches

58. The Scottish Government considered the option of either incorporating “premium economy” class travel within the definition of the standard tax rate category, or introducing a new tax rate category for premium economy class travel pitched at a level between the standard and premium categories. This was a common request in the responses to the



This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

Scottish Government's consultation paper and has been raised at stakeholder forum meetings.

59. Premium economy class typically involves a slightly improved seat pitch, wider seats and a menu upgrade and the passenger usually pays a higher price for this service (compared to the normal equivalent economy price). Under APD premium economy class attracts the same tax charge as is applied to business class and first class travel. Aircraft operators who currently offer a premium economy option feel that this tax treatment does not reflect the difference in service and ticket cost between standard economy and premium economy classes.

60. The Scottish Government has decided not to progress this option further at this stage, on the basis that it is considered difficult to justify reducing the relative tax burden on an enhanced passenger offering and there is no evidence that doing so would help to further the Scottish Government's strategic objective of improving international connectivity and generating sustainable growth. There are also difficulties that would need to be overcome in finding a clear legislative solution which adequately reflects the different types of services offered by aircraft operators.

61. The Scottish Government also considered and ruled out the option of a per-plane charging model, as opposed to the per-passenger model set out in the Bill and which is used for APD. A per-plane charging model is considered to be outwith the competence of the powers devolved to the Scottish Parliament under section 80L of the 1998 Act: "A tax charged on the carriage of passengers by air from airports in Scotland is a devolved tax".

62. The Scottish Government also considered the option of a "frequent flyer" charging model, which some external stakeholders have proposed. Under this model a person would be permitted to take a certain number of flights each year (for example, one return flight) without a tax being charged. Thereafter, progressively higher amounts of tax would be charged for each additional flight taken within any one year period.

63. This option has been ruled out as it is likely to involve significant additional implementation and on-going costs (for both Revenue Scotland and taxpayers) compared to a tax similar in structure to APD. The tax burden would be shifted from the airline to the passenger, and it would be very difficult to design administrative systems which captured the number

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

of flights taken by a single passenger each year – frequent passengers would typically use a number of different airlines over the course of a year, so using airlines as collection agents would be problematic and many such passengers would be resident outside of Scotland, making administration and compliance disproportionately resource intensive. By contrast, the model proposed for ADT is simple to administer as airlines already hold the relevant information and information provided by them on tax returns will be able to be cross-checked with passenger data required for other purposes, including regulation by the Civil Aviation Authority.

## Consultation

64. The retention under ADT of the same tax rate categories used under APD received strong support (75%) from respondents to the Scottish Government’s consultation paper. A majority of respondents providing further comment in favour of retaining the current tax rate categories indicated that this was based on the rate structure being familiar to and well understood by airlines and others. This included references to the extent to which the rate categories have been proven relevant to passengers, and a reasonable reflection of differences of experience (and ability to pay) across flight classes.

65. The retention under ADT of the same per-passenger model used under APD received strong support (81%) from respondents to the Scottish Government’s consultation paper. A majority of respondents providing further comment in favour of retaining the current per-passenger model indicated that this was based on the model being understood by airlines (and travel professionals and passengers). These respondents suggested that the model had proven a relatively simple structure in terms of administration and compliance, and its retention would minimise disruption and cost to taxpayers. A small number of respondents also made reference to the extent to which an alternative per-plane model would disadvantage airports servicing lower population density areas, where passenger loads are generally lower.

## Part 4 – payment, collection and management of tax

### Overview of policy objectives

#### Liability for tax and registration (sections 11 to 15)

66. The general scheme proposed for ADT is that an aircraft operator (a “taxable person”) involved in the carriage of a chargeable passenger on a

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

chargeable aircraft on any flight that begins at an airport in Scotland ( a “taxable activity”) must apply to be registered for the tax with Revenue Scotland. Taxable persons registered for the tax (and who are making quarterly tax returns) who are or will no longer be carrying out taxable activities are required to deregister with Revenue Scotland. The requirements to register and deregister are to ensure that Revenue Scotland has appropriate oversight of which aircraft operators are liable to make tax returns and pay tax in relation to ADT. Failing to register or deregister as required will attract a civil penalty under the RSTPA 2014.

67. Similar to arrangements for SLfT<sup>13</sup>, Revenue Scotland is required to keep and maintain a register (an “ADT register”) for the purpose of collecting and managing ADT. Revenue Scotland can publish any information derived from the register in the manner it thinks fit. This will help provide transparency for Revenue Scotland, taxable persons and the general public.

#### Tax returns and special accounting schemes (sections 16 to 20)

68. The Bill sets out provisions for tax returns and the payment of tax, including the use of special accounting schemes. Under ADT, there will be two different modes of making a tax return – a standard quarterly tax return and, subject to certain eligibility criteria, an occasional return made within a week of each actual flight. The Scottish Government understands that it is Revenue Scotland’s intention, as far as possible, to provide for a system whereby ADT tax returns are submitted online and tax is paid electronically (as is currently provided for LBTT and SLfT). Submitting returns and payments online will combine and speed up processes and allow the collection process to operate more efficiently by minimising errors or omissions in tax returns.

69. It is considered that a quarterly accounting period (covering 1 January to 31 March, 1 April to 30 June, 1 July to 30 September or 1 October to 31 December) is appropriate for the standard tax return, providing a fair balance between the tax return frequency and the administrative burden placed on both the taxable person and Revenue Scotland.

---

<sup>13</sup> <https://www.revenue.scot/scottish-landfill-tax/scottish-landfill-tax-register>

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

70. The occasional return (limited to covering flights for a one day period) is provided as an alternative option to the quarterly return in order to make it easier and more efficient for certain aircraft operators intending to operate infrequent or irregular flights and who have an expected annual ADT liability of less than or equal to £5,000. To provide appropriate safeguards regarding the use of this system, Revenue Scotland can at any time give written notice to the taxable person requiring them to make quarterly tax returns instead.

71. The business activities of taxable persons may change over time, so to provide flexibility a taxable person using one type of return can switch to using the other type (as long as they are eligible to do so), but must notify Revenue Scotland beforehand. Tax due in relation to a tax return (or amendment of a tax return) must be paid at the same time as the return is submitted to Revenue Scotland, and tax is treated as paid if arrangements satisfactory to Revenue Scotland are made for payment of the tax. This is consistent with the approach taken for the other devolved taxes.

72. Similar to arrangements in place for APD, provision has been made under ADT for taxable persons to be able to apply to Revenue Scotland to use a special accounting scheme for the purposes of completing the tax return. This may be desirable for some taxable persons where:

- it is not possible or not practical to identify different ADT exemptions and liabilities from the taxable person's transaction-based systems;
- the complexity of the taxable person's business is such that an individual passenger transaction-by-transaction approach would be impractical because of the time required to identify the correct amounts of ADT; or
- the nature of the business is such that passenger numbers are not normally recorded. This can often be the case with smaller aircraft operators, where the business model is based on the charter of an entire aircraft and not the number of individual passengers carried.

73. In order to provide safeguards regarding the use of such schemes, approval to use a special accounting scheme will only be given if Revenue Scotland considers that it is appropriate having regard to the difficulties that the person has encountered or expects to encounter in obtaining or recording information about passengers and their agreements for carriage.

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

Revenue Scotland can withdraw its approval for the scheme by giving written notice to the taxable person. A typical example of an approved special accounting scheme might involve using statistical sampling or passenger surveys to help calculate exemptions or liabilities for the purpose of completing the tax return.

## Tax representatives and security (sections 21 to 29)

74. There will be aircraft operators not based in an EEA State that are liable to ADT, so for revenue protection purposes and to ensure that Revenue Scotland is able to carry out its responsibilities of collecting and managing the tax effectively, the Bill sets out provisions for a system of tax representatives as well as security that Revenue Scotland may require to be provided to it. These provisions are broadly similar in effect to the system in place for APD.

75. Aircraft operators without a business or fixed establishment in an EEA State (unless they are only making occasional tax returns) must appoint a tax representative for the purposes of ADT, although to provide flexibility all operators making only occasional returns can also appoint a tax representative if they wish to. An aircraft operator can only appoint one tax representative at any one time. A tax representative may be anyone (e.g. an individual, a partnership, a body corporate or an unincorporated body) but they must have a business or other fixed establishment in an EEA State and meet certain other eligibility requirements. An aircraft operator who fails to appoint a tax representative when required to is liable to a civil penalty under the RSTPA 2014.

76. Two types of tax representative may be appointed: a fiscal tax representative or an administrative tax representative. A fiscal tax representative can act on behalf of the aircraft operator in relation to any aspect of ADT (e.g. making a tax return, paying tax) and is jointly and severally liable with the aircraft operator for ADT. The role of an administrative tax representative is much more limited, mainly restricted to keeping and preserving ADT records on behalf of the aircraft operator. As such, administrative tax representatives cannot make tax returns or pay tax on behalf of the aircraft operator, for example. Unlike a fiscal tax representative, an administrative tax representative is not jointly and severally liable with the aircraft operator for ADT.

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

77. When a tax representative appointment is to cease (the Bill sets out certain circumstances in which the appointment ceases to take effect), the taxable person and the tax representative must notify both each other and Revenue Scotland of that fact. This is to ensure that both parties to the appointment of the tax representative, and Revenue Scotland, are aware when it ceases to have effect. Failure to notify Revenue Scotland will attract a civil penalty under the RSTPA 2014.

78. Because an administrative tax representative is not jointly and severally liable with the taxable person for ADT, Revenue Scotland for revenue protection purposes will ordinarily require (in directions issued generally or individually) a taxable person to provide security as a condition precedent to the valid appointment of an administrative tax representative. Revenue Scotland must publish any general directions that it issues. If a fiscal tax representative has been appointed, Revenue Scotland will have the power to issue individual directions requiring the taxable person or the fiscal tax representative to provide security for the payment of any ADT that may become due. Failing to provide security as required under these circumstances will attract a penalty under the RSTPA 2014.

79. In both cases Revenue Scotland has the power to specify what type of security is appropriate, but it is expected that a guarantee from a financial institution of standing (such as an international bank) will normally be acceptable. If any amount of tax goes unpaid, all or part of the security will then be called up to offset any tax that is due. Revenue Scotland, if it considers it necessary, has the power at any time to require that additional security be provided.

### Handling agents (sections 30 and 31)

80. For revenue protection purposes, similar to APD the Bill enables Revenue Scotland to give notice to a taxable person's handling agent (but not if the handling agent is an individual) if any amount of tax remains unpaid more than 90 days after any part of that tax first became due, or if the taxable person is an aircraft operator without a business or fixed establishment in an EEA State (who is not making occasional tax returns) and has failed to appoint a tax representative as required. A handling agent for ADT purposes is a person who, by agreement with an aircraft operator, arranges seat allocation and boarding for passengers carried by the aircraft operator.

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

81. Once such a notice has been given, the handling agent is jointly and severally liable with the taxable person for the payment of any ADT (including any penalties or interest) that is incurred by the taxable person during the period the notice is in effect. It is expected that Revenue Scotland will in practice only use this power as a last resort, and appropriate safeguards are built into the provisions in the Bill to ensure that the power does not impact too onerously on handling agents.

## Amendments to RSTPA 2014 (Schedule 2)

82. Schedule 2 of the Bill makes amendments to the RSTPA 2014 to bring ADT into the framework for the collection and management of devolved taxes under the RSTPA 2014. The main amendments include:

- amending section 141 of the RSTPA 2014 to make clear that an inspection of a person's business premises under that section does not extend to the premises of a taxable person's tax representative or handling agent. The premises of the tax representative or handling agent will be able to be entered and inspected under section 142 of the RSTPA 2014 by amending The Revenue Scotland and Tax Powers Act (Involved Third Party) Order 2015 (SSI 2015/37) after the Bill has been enacted;
- amending penalty provisions in Part 8 of the RSTPA 2014 to ensure that current penalties (such as those for failing to make a tax return or pay tax) also apply to ADT, as well as creating new penalties for failures to meet obligations specific to ADT (such as failing to appoint a tax representative or provide security);
- amending section 223 of the RSTPA 2014 to enable Revenue Scotland to give a certificate stating that, in relation to a specific flight, a passenger is or is not a chargeable passenger or an aircraft is or is not a chargeable aircraft. These types of certificates are typically used in court or tribunal proceedings as evidence of certain facts until the contrary is proven;
- amending section 233 of the RSTPA 2014 to specify that a decision of Revenue Scotland that affects a requirement to provide security for the payment of ADT is appealable. This means that a person aggrieved by this type of decision can request that Revenue Scotland carry out a review of that decision, or the person can alternatively appeal to the independent Scottish

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

Tax Tribunals<sup>14</sup>. However, a person will not be entitled to request a review or appeal against a decision of Revenue Scotland to issue a general direction under section 29 of the Bill (requirement to provide security in relation to the appointment of an administrative tax representative), although a person may request a review or appeal against how the general direction has been applied by Revenue Scotland in their particular case.

## Alternative approaches

83. In relation to registration, the Scottish Government did not consider any alternative options as this is considered a fundamental part of the collection and management of ADT, enabling Revenue Scotland to have oversight of which aircraft operators are liable to make tax returns and pay tax in relation to ADT.

84. In relation to tax returns, the Scottish Government considered the option of having different accounting periods for tax returns (for example, monthly and annual tax returns as are provided for under APD) and not providing for an occasional return option. After due consideration of this matter with Revenue Scotland, and informed by responses to the consultation paper, a quarterly tax return with an optional occasional return for certain aircraft operators was considered to strike a fair balance between the tax return frequency and the administrative burden placed on both the taxable person and Revenue Scotland.

85. In relation to special accounting schemes, the Scottish Government considered the option of not allowing taxable persons to be able to apply to Revenue Scotland to use a special accounting scheme when the person encounters or expects to encounter difficulties in calculating how many passengers are chargeable passengers carried on chargeable aircraft operated by the person. This option was ruled out, because this would create a significant additional administrative burden on some airlines that currently use such schemes under APD, and it would increase the likelihood of inaccurate tax returns being submitted and wrong amounts of tax being paid.

86. In relation to tax representatives and handling agents, the Scottish Government considered the option of not placing a requirement on taxable

---

<sup>14</sup> <http://taxtribunals.scot/>



This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

persons without a business or fixed establishment in an EEA State to appoint a tax representative and not giving Revenue Scotland the power to make a handling agent jointly and severally liable, in certain circumstances, with the taxable person for ADT. Both options were ruled out on the basis that these requirements and powers are valuable safeguards for revenue protection purposes and also aid Revenue Scotland in carrying out its collection and management duties.

## Consultation

87. Only a relatively small proportion of respondents to the Scottish Government's policy consultation paper responded to questions relating to the collection and management of the tax, reflecting the fact that these topics are of most relevance to aircraft operators, who will be liable to account for and pay ADT.

88. The majority of those providing comment agreed with the range of proposals set out in the consultation document relating to the collection and management of ADT. This included questions setting out the proposed approaches for registration (75% agreement), tax returns (a range of 65-86% agreement), payment of tax (a range of 73-81% agreement), record keeping (79% agreement), tackling tax avoidance and tax evasion (82% agreement), investigatory and enforcement powers (87%), civil penalties (80%), interest (85%) and dispute resolution (88%). To the extent that these proposals were based on current approaches taken with APD or the other devolved taxes (LBTT and SLfT), respondents saw benefits in these approaches having proven effective to date and in simplifying compliance for taxpayers currently subject to APD.

89. Since the consultation closed, the Scottish Government has further refined its proposals for the collection and management of ADT through close collaborative working with Revenue Scotland and engaging with and learning from HMRC's extensive knowledge and experience of collecting and managing APD since it came into effect in 1994.

## Part 5 – final provisions

90. Part 5 of the Bill contains general and final provisions which include an interpretation section, the introduction of an index of defined expressions in schedule 3, the regulation-making powers and their procedures, ancillary provisions, reference to minor and consequential modifications of enactments and the application of provisions of the Bill to

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

the Crown. It also includes sections on the commencement of the Bill and its short title.

## Effects on equal opportunities, human rights, island communities, local government, sustainable development etc.

### Equal opportunities

91. The Scottish Government has assessed the potential impacts of the Bill on equal opportunities. The Bill does not unlawfully discriminate in any way with respect to any of the protected characteristics (including age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) either directly or indirectly.

92. Any impacts arising from the collection and management of ADT (for example the tax return, guidance or other documentation, Information Technology or other systems relating to ADT) once it has come into effect will be a matter for Revenue Scotland in terms of its duties under the Equality Act 2010. Revenue Scotland has a Staffing and Equalities Committee<sup>15</sup>.

### Human rights

93. European Court of Human Rights (“ECHR”) jurisprudence (see *Ferrazzini v. Italy* [GC] 2001-VII, paragraphs 24-31) affords the widest margin of appreciation to States in terms of their taxing function, save for cases where tax measures are of a penal, discriminatory or otherwise significantly disproportionate nature, and hence article 6 of ECHR is generally not engaged.

94. Schedule 2 of the Bill amends the RSTPA 2014 to, amongst other things, provide for a range of additional civil penalties in relation to ADT and make minor modifications to the scope of ADT-related decisions made by Revenue Scotland. However, a notice of review can be given to Revenue Scotland in relation to such decisions or a notice of appeal can be given to the independent and impartial Scottish Tax Tribunals (soon to be superseded by the First-tier Tribunal (Tax Chamber) and the Upper

---

<sup>15</sup> <https://www.revenue.scot/contact-us/freedom-information-guide/class-1-about-revenue-scotland>

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

Tribunal). It is thought therefore that decisions in relation to penalties are safe from any article 6 challenge.

95. The Scottish Government considers that Article 1 of Protocol 1 is engaged by the provisions in sections 23(1)(c) and 31(1) that impose joint and several liability for tax on respectively fiscal tax representatives and handling agents, but considers that these provisions are necessary to protect the revenue and anyway are reasonable and proportionate and in the public interest. Otherwise the Scottish Government considers that the Bill complies with the ECHR and does not give rise to any human rights concerns.

## Island communities

96. The impact on island communities will be determined when the detail on exemptions, tax bands and tax rate amounts is delivered at a later date. However, it is not expected that island communities will be adversely affected by the tax compared to other communities in Scotland.

97. Certain types of aircraft currently used on routes from/to Scottish islands have the maximum take-off weight of less than 5.7 tonnes and would therefore be non-chargeable aircrafts for the purpose of ADT. Examples of such aircraft include:

- A BN-2 Islander that is used on intra-island routes in Orkney, and between Oban and Coll, Colonsay and Tiree. This is a small turboprop plane with a maximum take-off weight of 2.994 tonnes.
- A Viking Twin Otter 400 that is used on routes between Glasgow and Barra, Campbeltown and Tiree. This is a small turboprop plane with a maximum take-off weight of 5.670 tonnes.

## Local government

98. There are no additional responsibilities or costs for local authorities as a result of this Bill. Accordingly, this Bill will have no direct impact on local government.

## Sustainable development

99. The provisions of the Bill establish the structure of ADT and how it will be collected and managed after the existing APD regime is disapplied in Scotland. As such no significant impacts (either positive or negative) in

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

relation to sustainable development are envisaged as compared to the current position.

100. Future decisions about bands and rate amounts will determine the extent of any impact on sustainable development considerations. The Scottish Government is currently undertaking a Strategic Environmental Assessment (“SEA”) in relation to the environmental impacts of its plan for a 50% reduction in the overall burden of ADT by the end of the fifth session of the Scottish Parliament. This reduction is expected to have a positive impact on the Scottish economy, employment and infrastructure, as well as generating sustainable growth. The Scottish Government will carry out further assessments of the impacts of this plan on sustainable development before implementing it.

101. The next main step of the SEA process is to publicly consult on the Scottish Government’s proposals on how a 50% reduction in the overall tax burden could be delivered. An Environmental Report accompanying the consultation will outline the results of the assessment findings and provide the public with a means to gauge and understand the likely environmental implications. Section 1(1)(b)(i) of the Environmental Assessment (Scotland) Act 2005<sup>16</sup> requires that this consultation be carried out before a public plan or programme, which falls with the scope of that Act, is submitted to a legislative procedure for adoption.

102. This future public consultation would follow the 12 week public consultation on the proposed plan and the potential environmental impacts that was carried out between 14 March 2016 and 3 June 2016 and included a Screening and Scoping report to inform the debate. The Screening and Scoping Report set out the likelihood of significant environmental effects and outlined the proposed methodology of the SEA to be undertaken. This consultation was in addition to undertaking the statutory consultation with the three consultation authorities (Scottish Natural Heritage, Historic Environment Scotland and the Scottish Environment Protection Agency).

103. A consultation analysis report and the responses received to the consultation (other than those where respondents asked for their

---

<sup>16</sup> <http://www.legislation.gov.uk/asp/2005/15/section/1>

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

comments to be kept confidential) were published on the Scottish Government's Citizen Space platform on 29 July 2016.<sup>17</sup>

---

<sup>17</sup> <https://consult.scotland.gov.uk/fiscal-responsibility/air-passenger-duty>

This document relates to the Air Departure Tax (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 19 December 2016

# Air Departure Tax (Scotland) Bill

## Policy memorandum

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website -

[www.parliament.scot](http://www.parliament.scot)

Produced and published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish Parliament website at:

[www.parliament.scot/documents](http://www.parliament.scot/documents)