

AIR DEPARTURE TAX – HIGHLANDS AND ISLANDS EXEMPTION

Briefing note for the H&I Working Group

1. This note summarises the recent developments on the implementation of Air Departure Tax (ADT) in Scotland and the exemption for flights departing from Highlands and Islands (H&I) airports.

Scottish Government aims

2. The Scottish Government (SG) has set out a clear aim to reduce the burden of air passenger taxation by 50% by the end of this parliamentary term, and abolish it when public finances allow. This remains the SG's position.
3. Within this aim, the SG has been clear that it strongly supports retaining an H&I exemption under ADT given the importance aviation plays in supporting residents, businesses and tourism in the area.

Background

4. Following the commencement of section 17 of the Scotland Act 2016 on 23 May 2016, the Air Departure Tax (Scotland) Act 2017 was passed by the Scottish Parliament on 20th June 2017.
5. An exemption for all flights departing from Highlands and Islands (H&I) airports has applied under UK Air Passenger Duty (APD) since 2001.
6. During the passage of the ADT Bill in Spring 2017, it emerged that the H&I exemption would have to be notified to and approved by the European Commission under State Aid rules before ADT could be introduced. This is because the SG is legislating for the first time on this matter and under the Scotland Act (1998), the SG and Scottish Parliament cannot act in a way which is contrary to EU law.

Engagement with UK Government

7. Since first notifying the Scottish Parliament of this position in April 2017, the Cabinet Secretary for Finance and Constitution (CSFC) has worked closely with UK Treasury Ministers on how to resolve this issue. This has included investigating a number of different ways to deliver the same or a better outcome for the H&I, without the need to notify the European Commission.
8. Despite intensive engagement with the UKG at Ministerial and official level we were unable to find a legally compliant solution that provided the full benefits of the current H&I exemption in time for 1 April 2018. At the time of the UK Autumn Budget in November 2017, the CSFC agreed with the UKG that the introduction of ADT in Scotland would be deferred until the issues raised in relation to the H&I exemption had been resolved, to ensure that the devolved powers are not compromised.

Current position

9. On 1 June 2018, and following agreement with the UKG, the CSFC informed Parliament that the introduction of ADT will be deferred beyond April 2019. This reflects the fact that - despite continued efforts - a solution has not yet been found, the need to give businesses more certainty over the timetable for ADT to plan ahead, and to give Revenue Scotland sufficient lead in time to be operationally ready to collect the tax.
10. Our next steps to delivery focus firstly on the work of this new H&I Working Group, through which we seek develop a joint understanding with key local stakeholders of the issues and the importance of the current exemption. Secondly, the ongoing work with the UK Government and through the H&I Working Group, to continue to explore solutions. Any solution must deliver the best possible outcome for the H&I, be compatible with EU law and not result in financial detriment to the SG or H&I. Thirdly, agreement will then need to be reached with the UK Government on a new introduction date that leaves adequate time for Revenue Scotland to be ready to collect and administer the tax, and to enable the required legislation on rates and bands to pass through Parliament.
11. In the interim the UKG will maintain the application of APD in Scotland and they will not make a Block Grant Adjustment in respect of ADT or lay the order to “switch off” APD in Scotland. This means that the current APD rates and bands will apply in Scotland from 2018-19 and the current UK APD H&I exemption will also still apply.
12. The Scottish Government remains committed to reducing the burden of air passenger taxation by 50% by the end of this parliamentary term, and to abolish it when public finances allow. We will continue to work in partnership with airlines, and with all Scotland’s airports, to grow the number of international routes to and from Scotland.

**Tax Division, The Scottish Government
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