



# Scotland Act 2016

## 2016 CHAPTER 11

### PART 2

#### TAX, BORROWING AND FINANCIAL INFORMATION

##### *Income tax*

### **13 Power of Scottish Parliament to set rates of income tax**

- (1) Section 80C of the Scotland Act 1998 (power to set a Scottish rate for Scottish taxpayers) is amended as follows.
- (2) In subsection (1) (power to set Scottish rate) for the words from “the Scottish rate” to the end substitute “ the Scottish basic rate, and any other rates, for the purposes of section 11A of the Income Tax Act 2007 (which provides for the income of Scottish taxpayers which is charged at those rates)”.
- (3) For subsection (2) substitute—
  - “(2A) Where a Scottish rate resolution sets more than one rate it must also set limits or make other provision to enable it to be ascertained, for the purposes of that section, which rates apply in relation to a Scottish taxpayer.
  - (2B) But a Scottish rate resolution may not provide for different rates to apply in relation to different types of income.
  - (2C) In this Chapter a “Scottish rate” means a rate set by a Scottish rate resolution.”
- (4) Omit subsection (4).
- (5) In subsection (5) (Scottish rate to be a whole number or half a whole number)—
  - (a) for “The” substitute “A”, and
  - (b) at the end insert “, or zero”.
- (6) In the title for “rate” substitute “rates”.

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- (7) Other provisions of Part 4A of the Scotland Act 1998 are amended as follows.
- (8) In section 80A(1)(a) (overview of Part 4A) after “rate” insert “or rates”.
- (9) Section 80G (supplemental powers to modify enactments) is amended as follows.
- (10) In subsection (1) (power to modify section 11A of the Income Tax Act 2007)—
  - (a) in the words before paragraph (a) for “the Scottish basic, higher and additional” substitute “Scottish”, and
  - (b) in paragraph (a) for “the rates provided for under the section” substitute “Scottish rates”.
- (11) In subsection (1A) (power to modify references to certain rates of income tax in relation to Scottish taxpayers) for the words after “enactment” substitute “so as to make any provision that they consider necessary or expedient in consequence of or in connection with—
  - (a) the powers of the Parliament under section 80C;
  - (b) a Scottish rate resolution”.
- (12) In subsection (1B) (power to postpone effect of Scottish rate etc in relation to PAYE regulations) for paragraphs (a) and (b) substitute—
  - “(a) provision made by a Scottish rate resolution for a tax year,
  - (b) the absence of particular provision in a Scottish rate resolution for a tax year, or
  - (c) the absence of a Scottish rate resolution for a tax year.”.
- (13) In section 80HA(3)(b) (report by the Comptroller and Auditor General: meaning of “Scottish rate provisions”) for the words from “the Scottish basic rate” to the end substitute “a Scottish rate”.
- (14) This section comes into force on such day as the Treasury may by regulations appoint.
- (15) The amendments made by this section have effect in relation to the tax year appointed by the Treasury by regulations and subsequent tax years.
- (16) The tax year appointed under subsection (15) must begin on or after the day appointed under subsection (14).
- (17) Regulations under this section must be made by statutory instrument.

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**Modifications etc. (not altering text)**

**C1** S. 13(15): 2017-18 appointed as the first tax year by [S.I. 2016/1161](#), reg. 3

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**Commencement Information**

**II** S. 13 in force at 30.11.2016 (with effect in accordance with reg. 3 of the commencing S.I.) by [S.I. 2016/1161](#), [reg. 2](#)

## 14 Amendments of Income Tax Act 2007

- (1) The Income Tax Act 2007 is amended as follows.
- (2) Section 6 (rates at which income tax is charged) is amended as follows.

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- (3) In subsection (3) omit paragraph (za).
- (4) After that subsection insert—
- “(4) See also section 80C of the Scotland Act 1998 which makes provision for the purposes of section 11A (income charged at Scottish rates).”
- (5) Omit section 6A (the Scottish basic, higher and additional rates).
- (6) In section 10(4) for “the Scottish basic, higher and additional” substitute “ Scottish ”.
- (7) Section 11A (income charged at the Scottish basic, higher and additional rates) is amended as follows.
- (8) For subsections (1) to (3) substitute—
- “(1A) Income tax is charged at Scottish rates on the non-savings income of a Scottish taxpayer.”
- (9) In subsection (6) for the words after “determining” substitute “ which part of a Scottish taxpayer's income consists of savings income ”.
- (10) In the title for “the Scottish basic, higher and additional” substitute “ Scottish ”.
- (11) In section 13 (income charged at dividend rates)—
- (a) in subsection (1)(b) omit “or the Scottish basic rate,”,
- (b) in subsection (2)(b) omit “or the Scottish higher rate,”,
- (c) in subsection (2A)(b) omit “or the Scottish additional rate,”,
- (d) in subsection (4) omit “or the Scottish basic, higher or additional rate”, and
- (e) after subsection (4) insert—
- “(5) In relation to an individual who is a Scottish taxpayer, references in this section to income that would otherwise be charged at a particular rate are to be read as references to income that would, if the individual were not a Scottish taxpayer, be charged at that rate (and subsection (4) is to be read accordingly).”
- (12) For section 16(1)(za) (purposes for which section 16 has effect in relation to income tax of a Scottish taxpayer) substitute—
- “(za) which part of a Scottish taxpayer's income consists of savings income.”
- (13) In section 989 (definitions for the purposes of the Income Tax Acts)—
- (a) omit the definitions of “Scottish additional rate” and “Scottish higher rate”,
- (b) in the definition of “Scottish basic rate”, for the words after “Scottish basic rate” substitute “ in relation to a tax year, means the Scottish basic rate set by a Scottish rate resolution for that year ”, and
- (c) at the appropriate place insert—
- ““Scottish rate” in relation to a tax year, means a rate set by a Scottish rate resolution for that year,”, and
- ““Scottish rate resolution” means a resolution of the Scottish Parliament under section 80C of the Scotland Act 1998,”.
- (14) In Schedule 4 (index of defined expressions)—

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- (a) omit the entries relating to the Scottish additional rate and the Scottish higher rate,
- (b) in the entry relating to the Scottish basic rate for “6A (as applied by section 989)” substitute “ 989 ”,
- (c) at the appropriate place insert—

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“Scottish rate section 989”

- (d) at the appropriate place insert—

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“Scottish rate resolution section 989”

- (15) The amendments made by this section—
  - (a) come into force on the day appointed by the Treasury under section 13(14), and
  - (b) have effect in relation to the tax year appointed by the Treasury under section 13(15) and subsequent tax years.

#### Commencement Information

**I2** [S. 14](#) in force at 23.5.2016 for specified purposes, see [s. 72\(3\)](#)

## 15 Consequential amendments: income tax

- (1) In section 110(2) of the Scotland Act 1998 (Scottish taxpayers: rates of income tax for social security purposes) for the words from “the Scottish basic rate” to “Scottish taxpayers” substitute “ a Scottish rate (within the meaning of the Income Tax Acts) ”.
- (2) Section 4 of the Taxation of Chargeable Gains Act 1992 (rates of capital gains tax) is amended as follows.
- (3) In subsections (4) and (5) omit “, the Scottish higher rate”.
- (4) At the end insert—
  - “(10) For the purposes of the following references, an individual who is a Scottish taxpayer is to be treated as if the individual were not a Scottish taxpayer—
    - (a) the references in subsections (4) and (5) to income tax being chargeable at the higher rate;
    - (b) the reference in subsection (7) to the basic rate limit.
  - (11) Section 4A(5) is to be read accordingly.”
- (5) In section 4A(5) of that Act (section 4: special cases) omit “, the Scottish higher rate”.
- (6) In consequence of the amendments made by sections 13, 14 and this section omit the following provisions of Schedule 38 to the Finance Act 2014—
  - (a) paragraph 2(b);
  - (b) paragraph 3;
  - (c) paragraph 6(a) to (c) and (e);
  - (d) paragraph 7;
  - (e) paragraph 15(2) and (3);

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- (f) paragraph 16(2) and (8).
- (7) The amendments made by this section—
  - (a) come into force on the day appointed by the Treasury under section 13(14), and
  - (b) have effect in relation to the tax year appointed by the Treasury under section 13(15) and subsequent tax years.
- (8) The Treasury may by regulations make—
  - (a) such consequential provision as they consider appropriate in connection with any provision of section 13 or 14;
  - (b) such transitional or saving provision as they consider appropriate in connection with the coming into force of any provision of section 13 or 14 or subsections (1) to (6).
- (9) Regulations under this section may amend, repeal, revoke or otherwise modify an enactment, whenever passed or made (including this Act).
- (10) The following are subject to any provision made by virtue of subsection (8)(b)—
  - (a) subsection (7);
  - (b) section 13(15);
  - (c) section 14(15).
- (11) Regulations under this section must be made by statutory instrument.
- (12) A statutory instrument containing regulations under this section which includes provision amending or repealing a provision of an Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.
- (13) Any other statutory instrument containing regulations under this section, if made without a draft having been approved by a resolution of the House of Commons, is subject to annulment in pursuance of a resolution of the House of Commons.
- (14) In this section “enactment” includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978).

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**Commencement Information**

**I3** S. 15 in force at 23.5.2016 for specified purposes, see s. 72(3)

*Value added tax*

**16 Assignment of VAT**

- (1) The Scotland Act 1998 is amended as follows.
- (2) In section 64 (Scottish Consolidated Fund), after subsection (2) insert—
  - “(2A) The Secretary of State shall in accordance with section 64A pay into the Fund out of money provided by Parliament any amounts payable under that section.”
- (3) After that section insert—

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#### “64A Assignment of VAT

- (1) Where there is an agreement between the Treasury and the Scottish Ministers for identifying an amount agreed to represent the standard rate VAT attributable to Scotland for any period (“the agreed standard rate amount”), the amount described in subsection (3) is payable under this section in respect of that period.
- (2) Where there is an agreement between the Treasury and the Scottish Ministers for identifying an amount agreed to represent the reduced rate VAT attributable to Scotland for that period (“the agreed reduced rate amount”), the amount described in subsection (4) is payable under this section in respect of that period.
- (3) The amount payable in accordance with subsection (1) is the amount obtained by multiplying the agreed standard rate amount by—

$$\frac{10}{SR}$$

where SR is the number of percentage points in the rate at which value added tax is charged under section 2(1) of the Value Added Tax Act 1994 for the period.

- (4) The amount payable in accordance with subsection (2) is the amount obtained by multiplying the agreed reduced rate amount by—

$$\frac{2.5}{RR}$$

where RR is the number of percentage points in the rate at which value added tax is charged under section 29A(1) of the Value Added Tax Act 1994 for the period.

- (5) The payment of those amounts under section 64(2A) is to be made in accordance with any agreement between the Treasury and the Scottish Ministers as to the time of the payment or otherwise.”
- (4) The Commissioners for Revenue and Customs Act 2005 is amended as follows.
- (5) In subsection (2) of section 18 (confidentiality: exceptions) omit “or” after paragraph (i), and after paragraph (j) insert “, or
  - (k) which is made in connection with (or with anything done with a view to) the making or implementation of an agreement referred to in section 64A(1) or (2) of the Scotland Act 1998 (assignment of VAT).”
- (6) After that subsection insert—
  - “(2A) Information disclosed in reliance on subsection (2)(k) may not be further disclosed without the consent of the Commissioners (which may be general or specific).”

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- (7) In section 19 (wrongful disclosure) in subsections (1) and (8) after “18(1)” insert “or (2A)”.

**Commencement Information**

**I4** S. 16 in force at 23.5.2016, see s. 72(3)

*Devolved taxes*

**17 Tax on carriage of passengers by air**

- (1) In Part 4A of the Scotland Act 1998, after Chapter 4 insert—

**“CHAPTER 5**

**TAX ON CARRIAGE OF PASSENGERS BY AIR**

**80L Tax on carriage of passengers by air**

A tax charged on the carriage of passengers by air from airports in Scotland is a devolved tax.”

- (2) Tax may not be charged in accordance with that provision on the carriage of passengers boarding aircraft before the date appointed under subsection (7).
- (3) Chapter 4 of Part 1 of The Finance Act 1994 (air passenger duty) is amended as follows.
- (4) In section 28(4) (a chargeable passenger is a passenger whose journey begins at an airport in the United Kingdom), for “the United Kingdom” substitute “England, Wales or Northern Ireland”.
- (5) In section 31(4B) (exception for passengers departing from airports in designated region of the United Kingdom) for “the United Kingdom” substitute “England, Wales or Northern Ireland”.
- (6) The Air Passenger Duty (Designated Region of the United Kingdom) Order 2001 (S.I. 2001/808) is revoked.
- (7) Subsections (3) to (6) have effect in relation to flights beginning on or after such date as the Treasury appoint by regulations made by statutory instrument.

**Commencement Information**

**I5** S. 17 in force at 23.5.2016, see s. 72(3)

**18 Tax on commercial exploitation of aggregate**

- (1) In Part 4A of the Scotland Act 1998, after the Chapter 5 inserted by section 17 insert—

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## “CHAPTER 6

### TAX ON COMMERCIAL EXPLOITATION OF AGGREGATE

#### 80M Tax on commercial exploitation of aggregate

- (1) A tax which is charged on aggregate when it is subjected to commercial exploitation in Scotland is a devolved tax.
- (2) The tax must not be chargeable when aggregate is subjected to commercial exploitation for fuel.
- (3) Aggregate is subjected to commercial exploitation for fuel—
  - (a) when the aggregate is used as fuel;
  - (b) when the aggregate is subjected to commercial exploitation for the purpose of extracting or producing anything capable of being used as fuel;
  - (c) when the aggregate becomes subject to an agreement to use it as mentioned in paragraph (a) or to subject it to commercial exploitation as mentioned in paragraph (b).”
- (2) Tax may not be charged in accordance with that provision on commercial exploitation of aggregate which takes place before the date appointed under subsection (4).
- (3) In section 16(2) of the Finance Act 2001 (aggregates levy) for “the United Kingdom” substitute “England, Wales or Northern Ireland”.
- (4) Subsection (3) and Schedule 1 (further amendments relating to the disapplication of UK aggregates levy to Scotland) have effect in relation to commercial exploitation of aggregate which takes place on or after such date as the Treasury appoint in regulations made by statutory instrument.

#### **Commencement Information**

**I6** [S. 18](#) in force at 23.5.2016, see [s. 72\(3\)](#)

#### **19 Devolved taxes: further provision**

- (1) In section 80A of the Scotland Act 1998 (overview of Part 4A), in subsection (1)(b), for “Chapters 3 and 4” substitute “The remaining Chapters”.
- (2) The Treasury may by regulations make further provision relating to—
  - (a) the disapplication of air passenger duty in relation to flights beginning at airports in Scotland;
  - (b) the disapplication of aggregates levy in relation to commercial exploitation of aggregate in Scotland.
- (3) The power conferred by subsection (2) includes power—
  - (a) to make transitional or saving provision in connection with the coming into force of section 17 or 18 or Schedule 1;



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- (b) to amend, repeal, revoke or otherwise modify an enactment, whenever passed or made (including this Act).
- (4) Section 17(7) and section 18(4) are subject to any provision made by virtue of subsection (3).
- (5) Regulations under this section must be made by statutory instrument.
- (6) A statutory instrument containing regulations under this section which includes provision amending or repealing a provision of an Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.
- (7) Any other statutory instrument containing regulations under this section, if made without a draft having been approved by a resolution of the House of Commons, is subject to annulment in pursuance of a resolution of the House of Commons.
- (8) In this section “enactment” includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978).

**Commencement Information**

**I7** S. 19 in force at 23.5.2016, see s. 72(3)

*Borrowing*

**20 Borrowing**

- (1) The Scotland Act 1998 is amended as follows.
- (2) Section 66(1) (borrowing by the Scottish Ministers from the Secretary of State) is amended as follows.
- (3) At the end of paragraph (b) omit “and”.
- (4) In paragraph (c)—
  - (a) after “devolved taxes,” omit “or”;
  - (b) after “Scottish rate resolution,” insert “ or from amounts payable under section 64A, ”.
- (5) After paragraph (c) insert—
  - “(d) any sums which in accordance with rules determined by the Treasury are required by them to meet current expenditure because of an excess of welfare payments over forecast welfare payments, and
  - (e) any sums which in accordance with rules made by the Treasury are required by them to meet current expenditure because of a Scotland-specific negative economic shock.”
- (6) After that subsection insert—
  - “(1ZA) In subsection (1)(d) “welfare payments” means—
    - (a) payments under any provision relating to matters within exceptions 1 to 10 in Section F1 of Part 2 of Schedule 5 or exception 1 in Section H3 of that Part, and

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- (b) payments attributable to regulations made by the Scottish Ministers by virtue of section 29 or 30 of the Scotland Act 2016 (powers in relation to universal credit).”
- (7) In section 67(2) and (3A) (lending under section 66(1)) for “£500 million” substitute “£1.75 billion”.
- (8) In section 67A (lending for capital expenditure) in subsections (1) and (3) for “£2.2 billion” substitute “£3 billion”.
- (9) The Treasury may by regulations make transitional or saving provision in connection with the coming into force of the amendments made by this section.
- (10) Regulations under subsection (9) must be made by statutory instrument.
- (11) A statutory instrument containing regulations under subsection (9), if made without a draft having been approved by a resolution of the House of Commons, is subject to annulment in pursuance of a resolution of the House of Commons.

**Commencement Information**

**18** S. 20 in force at 1.4.2017 by S.I. 2016/1178, reg. 2(a)

*Information*

**21 Provision of information to the Office for Budget Responsibility**

- (1) The Scotland Act 1998 is amended as follows.
- (2) After section 96 (provision of information to the Treasury) insert—

**“96A Provision of information to the Office for Budget Responsibility**

- (1) The Office for Budget Responsibility has a right of access at any reasonable time to all Scottish public finances information which it may reasonably require for the purpose of the performance of its duty under section 4 of the Budget Responsibility and National Audit Act 2011 (duty to examine and report on the sustainability of the public finances).
  - (2) The Office is entitled to require from any person holding or accountable for any Scottish public finances information any assistance or explanation which the Office reasonably thinks necessary for that purpose.
  - (3) “Scottish public finances information” means information held by the Scottish Ministers or by any Scottish public authority specified in regulations made by the Secretary of State.
  - (4) This section is subject to any enactment or rule of law which operates to prohibit or restrict the disclosure of information or the giving of any assistance or explanation.”
- (3) In Schedule 7 (procedure for subordinate legislation), in paragraph 1(2) insert at the appropriate place—

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“Section 96A

Type C”

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**Commencement Information**

**19** S. 21 in force at 1.4.2017 by S.I. 2016/1178, reg. 2(b)

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/455, reg. 3 by [S.I. 2019/1438 reg. 2](#)