



Appendix 1

Response To - Call for Evidence: *Air Departure Tax (Scotland) Bill*

Based on the text of the *Air Departure Tax (Scotland) Bill* and the request for comments on the issues presented in the Call for Evidence from the Finance and Constitution Committee, the International Air Transport Association (“IATA”) presents below its responses for your consideration.

I. **How best to achieve the strategic and policy objectives which the Scottish Government have set for the Bill and whether these objectives are appropriate.**

The *Air Departure Tax (Scotland) Bill* appears to lay the foundation for the longer term achievement of the Scottish Government’s objectives of developing and enhancing Scotland’s air connectivity to the benefit of the people of Scotland and to boost the Scottish economy. While only a full abolition of passenger ticket taxes on air transport, such as the proposed Air Departure Tax (“ADT”), will ensure that the full consumer and economic benefits of aviation are realized, IATA understands the current fiscal challenges faced by the Scottish Government. In this regard, IATA continues to recognize the Scottish Government’s commitment to first substantially reduce the ADT (in comparison to the current UK Air Passenger Duty (“APD”) rates) and ultimately completely abolish the ADT when resources allow.

This notwithstanding, and as previously noted in our submission of 30 May 2016, the proposed Scottish ADT should ensure the relative administrative simplicity associated with the APD from a taxpayer perspective is maintained and that it be aligned with the APD in terms of its design, application and administration to avoid unnecessary and costly duplication.

At present, it is our understanding that if the *Air Departure Tax (Scotland) Bill* is enacted, the ADT will become effective and will replace the UK APD in Scotland as of 1 April 2018. To this end, attention should be afforded to extending the implementation date of the ADT in order to provide taxpayers with at least 12 months advance notice from when the legislation is enacted and the regulations governing the ADT are issued. This would ensure taxpayers have sufficient time to make the necessary systems and administrative changes to comply with the new tax.

II. **The extent to which the key concepts of the Bill with regard to the passengers and aircraft which will be subject to the tax are appropriate.**

With regards to passengers and aircraft that are to be subject to the Scottish ADT, these are, in general, aligned with the respective provisions governing the UK APD.

However, as the Scottish Government looks to establish the regulations accompanying the ADT, significant attention should be paid to ensuring that the same passenger exemptions (e.g., infants under 2 years who are not allocated a separate seat, etc.) and flight exemptions (e.g., from the Scottish Highlands and



Islands region, emergency/public service flights, circumstances beyond the control of the airline, etc.) under the APD are provided for under the Scottish ADT. It is our understanding that such exemptions under the ADT can be made by means of separate regulations as afforded under Section 8 of the *Air Departure Tax (Scotland) Bill* and IATA encourages their creation.

III. **The appropriateness of the proposed structure for the tax.**

The proposed tax structure of the Scottish ADT based on the final destination of the passenger and the class of travel is consistent with the application of the APD. That being said, it is important that for consistency purposes with the APD, no more than two distance-based bands apply, as well as no more than two class of travel bands apply for non-special category aircraft under the ADT. Similarly, only one class of travel category should exist under the ADT for special category aircraft.

With respect to the proposed distance-based bands under the Scottish ADT, these should be applicable on a fixed point of departure and a fixed point of arrival basis similar to the current application under the UK APD. In this respect, the determination of which distance-based band applies under the UK APD (i.e., Band A or Band B) is based on the distance between London (irrespective of the point of departure in the UK) and the capital city of the country/territory of the destination (irrespective of the actual destination in the country/territory). Similar provisions under the Scottish ADT would reduce the compliance burden to taxpayers and enhance the efficiency and accuracy of the tax calculation in airline pricing systems.

With respect to the proposed standard tax and premium tax rates for non-special category aircraft under the ADT, significant consideration should be given to including premium economy travel (with the relevant seat specifications) within the standard tax rate category. This is due to the fact that a passenger typically pays only a modest supplement over the cost of traditional economy travel and as such, should not be subject to a higher, premium rate of tax as a result.

Finally, full consideration should be given to the tax treatment of taxable passengers that pay for class of service upgrades during the flight and where the upgrade in question occurs outside of Scotland. For example, if a passenger pays for and is issued a ticket for economy class travel for the route EDI-LHR-SIN and subsequently pays for an upgrade to business class only on the LHR-SIN segment, the taxpayer (airline) should not be liable for payment of the premium rate of ADT. In such situations, the application of the ADT should be commensurate with the ticket as originally issued, otherwise this would present a significant administrative burden to taxpayers in accurately accounting for the tax, as well as be an extrajudicial imposition of the Scottish ADT.

While such situations are relatively rare, the Scottish Government should actively look to clarify the application of the ADT by means of written guidance/interpretation in order to avoid ambiguity as to the application of the tax and the associated compliance challenges that may result for all parties.



IV. The proposed administrative arrangements for the payment, collection and management of the tax.

In general, the payment, collection and management of the proposed Scottish ADT appear to be manageable and generally consistent with those of the UK APD.

That being said, consideration should be given to developing and implementing an online reporting system that would allow taxpayers to file their ADT returns (be they quarterly or occasional tax returns) with Revenue Scotland. Such an online system would reduce the administrative burden for airlines and provide Revenue Scotland the requisite information to effectively ensure compliance with the ADT.

Additionally, confirmation is sought with respect to the laws and regulations covering the following matters, including:

- Taxpayer Amendments – Under Section 83 of the *Revenue Scotland and Tax Powers Act 2014* (“RSTPA 2014”), it is IATA’s understanding that taxpayers will be able to amend their tax returns for a period of up to 12 months from the filing date of the tax return. In this respect, confirmation is sought that such tax return amendment procedures apply to the ADT and if not, the *Air Departure Tax (Scotland) Bill* should be amended to include such procedures.
- Relief from Overpayment of the ADT – Beyond the 12 month tax return amendment period, it is IATA’s understanding that taxpayers will be permitted by means of a written submission to Revenue Scotland to make a claim of overpayment of the ADT under Sections 106-107 of the RSTPA 2014. Under Section 106 (Relief in case of double assessment) and Section 107 (Claim for relief for overpaid tax etc.) of the RSTPA 2014, there is a five year time limit to making a claim of overpayment and IATA requests confirmation that such provisions apply to the overpayment of ADT. If not, the *Air Departure Tax (Scotland) Bill* should be amended in order to permit relief from the overpayment of ADT.
- Record Keeping for ADT Purposes – Regarding the retention of the appropriate records in relation to the correct and complete imposition and remittance of the ADT, confirmation is sought that, as stipulated under Sections 74-75 of the RSTPA 2014, taxpayers are required to maintain and preserve such records and returns for a period of five years. If not, the *Air Departure Tax (Scotland) Bill* should be amended in order to include the appropriate record retention period.

V. Any other issues which are considered relevant to the proposed tax.

While not strictly a legal matter in relation to the *Air Departure Tax (Scotland) Bill*, it is of vital importance that the Scottish and UK Governments develop effective and fair transitional rules that provide clear and specific guidance to taxpayers as to the remittance of APD based on the date of passenger travel and collected in advance of the implementation of the Scottish ADT.



This is due to the fact that tickets for air travel can be sold up to 12 months in advance of travel and, in certain cases (e.g. charter flights), this can be as much as 18 months in advance. The APD is currently levied and collected at the time of ticket issuance, which in many instances will predate the implementation of the Scottish ADT.

However, similar to the proposed Scottish ADT, the APD is not due for remittance until the commencement of passenger travel. As such, this potentially creates an issue, based on when the passenger travels, as to which revenue authority the tax should be remitted to. Consequently, guidance from the authorities is necessary in order to avoid unnecessary costs and issues around taxpayer compliance.