



# Scotland Act 1998

## 1998 CHAPTER 46

### [<sup>F1</sup>PART 4A

#### TAXATION

#### Textual Amendments

**F1** Pt. 4A inserted (1.7.2012) by [Scotland Act 2012 \(c. 11\)](#), ss. [23\(2\)](#), [44\(2\)\(b\)](#)

### CHAPTER 1

#### INTRODUCTORY

#### **80A Overview of Part 4A**

- (1) In this Part—
  - (a) Chapter 2 confers on the Scottish Parliament power to set a rate of income tax to be paid by Scottish taxpayers, and
  - (b) Chapters 3 and 4 specify the taxes about which the Scottish Parliament may make provision in the exercise of the power conferred by section 28(1).
- (2) The power to make provision about a devolved tax is subject to the restrictions imposed by—
  - (a) subsection (3), and
  - (b) the other provisions of this Part.
- (3) A devolved tax may not be imposed where to do so would be incompatible with any international obligations.
- (4) In this Act “ devolved tax ” means a tax specified in this Part as a devolved tax.

*Status: Point in time view as at 17/02/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, Part 4A. (See end of Document for details)*

## 80B Power to add new devolved taxes

- (1) Her Majesty may by Order in Council amend this Part so as to—
  - (a) specify, as an additional devolved tax, a tax of any description, or
  - (b) make any other modifications of the provisions relating to devolved taxes which She considers necessary or expedient.
- (2) An Order in Council under this section may also make such modifications of—
  - (a) any enactment or prerogative instrument (including any enactment comprised in or made under this Act), or
  - (b) any other instrument or document,
 as Her Majesty considers necessary or expedient in connection with other provision made by the Order.]

## [<sup>F2</sup>CHAPTER 2

### INCOME TAX

#### Textual Amendments

**F2** Pt. 4A Ch. 2 inserted (1.7.2012 with effect in accordance with s. 44(3)(a) of the amending Act) by Scotland Act 2012 (c. 11), ss. 25(3), 44(2)(b), (3)(a); S.I. 2015/2000, art. 3

## 80C Power to set Scottish rate for Scottish taxpayers

- (1) The Scottish Parliament may by resolution (a “Scottish rate resolution”) set the Scottish rate for the purpose of calculating the rates of income tax to be paid by Scottish taxpayers.
- [<sup>F3</sup>(2) See section 6A of the Income Tax Act 2007 for provision about the calculation of those rates and section 11A of that Act for provision about the income charged at those rates.]
- (3) A Scottish rate resolution applies—
  - (a) for only one tax year, and
  - (b) for the whole of that year.
- (4) A Scottish rate resolution may specify only one rate.
- (5) The Scottish rate must be a whole number or half a whole number.
- (6) A Scottish rate resolution—
  - (a) must specify the tax year for which it applies,
  - (b) must be made before the start of that tax year, and
  - (c) must not be made more than 12 months before the start of that year.
- (7) If a Scottish rate resolution is cancelled before the start of the tax year for which it is to apply—
  - (a) the Income Tax Acts have effect for that year as if the resolution had never been passed, and
  - (b) the resolution may be replaced by another Scottish rate resolution.

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- (8) Standing orders must provide that only a member of the Scottish Government may move a motion for a Scottish rate resolution.

#### Textual Amendments

**F3** S. 80C(2) substituted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 38 para. 16\(2\)](#)

### 80D Scottish taxpayers

- (1) [<sup>F4</sup>For] any tax year, a Scottish taxpayer is an individual (T)—
- (a) who is resident in the UK for income tax purposes [<sup>F5</sup>for that year (see Schedule 45 to the Finance Act 2013)], and
  - (b) who, for that year, meets condition A, B or C.
- (2) T meets condition A if T has a close connection with Scotland (see section 80E).
- (3) T meets condition B if—
- (a) T does not have a close connection with [<sup>F6</sup>England, Wales or Northern Ireland] (see section 80E), and
  - (b) T spends more days of that year in Scotland than in any other part of the UK (see section 80F).
- (4) T meets condition C if, for the whole or any part of the year, T is—
- (a) a member of Parliament for a constituency in Scotland,
  - (b) a member of the European Parliament for Scotland, or
  - (c) a member of the Scottish Parliament.
- (5) In this Chapter “ the UK ” means the United Kingdom.

#### Textual Amendments

**F4** Word in s. 80D(1) substituted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 11\(3\)\(a\)](#), 29(2)(b), 29(3)

**F5** Words in s. 80D(1)(a) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 11\(3\)\(b\)](#), 29(2)(b), 29(3)

**F6** Words in s. 80D(3)(a) substituted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 11\(4\)](#), 29(2)(b), 29(3)

### 80E Close connection with Scotland or another part of the UK

- (1) To find whether, for any year, T has a close connection with any part of the UK see—
- (a) subsection (2) (where T has only one place of residence in the UK ), or
  - (b) subsection (3) (where T has 2 or more places of residence in the UK ).
- (2) T has a close connection with a part of the UK if in that year—
- (a) T has only one place of residence in the UK ,
  - (b) that place of residence is in that part of the UK , and
  - (c) for at least part of the year, T lives at that place.
- (3) T has a close connection with a part of the UK if in that year—
- (a) T has 2 or more places of residence in the UK ,
  - (b) for at least part of the year, T's main place of residence in the UK is in that part of the UK ,

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- (c) the times in the year when T's main place of residence is in that part of the UK comprise (in aggregate) at least as much of the year as the times when T's main place of residence is in [<sup>F7</sup>each other part of the UK (considered separately)] , and
  - (d) for at least part of the year, T lives at a place of residence in that part of the UK.
- (4) In this section “ place ” includes a place on board a vessel or other means of transport.

#### Textual Amendments

**F7** Words in s. 80E(3)(c) substituted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 11(7)(b)**, 29(2)(b), 29(3)

### 80F Days spent in Scotland or another part of the UK

- (1) T spends more days of a year in Scotland than in any other part of the UK if (and only if)—
  - (a) the number of days in the year on which T is in Scotland at the end of the day equals or exceeds
  - (b) the number of days in the year on which T is in any other part of the UK at the end of the day.
- (2) [<sup>F8</sup>T is treated as not] being in the UK at the end of a day if—
  - (a) on that day T arrives in the UK as a passenger,
  - (b) T departs from the UK on the next day, and
  - (c) during the time between arrival and departure T does not engage in activities which are to a substantial extent unrelated to T's passage through the UK.

#### Textual Amendments

**F8** Words in s. 80F(2) substituted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 11(8)(b)**, 29(2)(b), 29(3)

### 80G Supplemental powers to modify enactments

- [<sup>F9</sup>(1) The Treasury may by order modify section 11A of the Income Tax Act 2007 (income charged at the Scottish basic, higher and additional rates) for the purpose of altering—
  - (a) the definition of the income which is charged to income tax at the rates provided for under the section, or
  - (b) the application of the section in relation to a particular class of income which is so charged.
- (1A) The Treasury may by order modify any enactment not contained in Chapter 2 of Part 2 of the Income Tax Act 2007 (rates at which income tax is charged) so that it makes provision, in relation to a Scottish taxpayer, by reference to the Scottish basic rate, the Scottish higher rate or the Scottish additional rate, instead of the basic rate, the higher rate or the additional rate.
- (1B) If the Treasury consider it necessary or expedient to do so, they may by order provide that—
  - (a) the Scottish rate set by the Parliament for a tax year, or
  - (b) the fact that the Scottish rate has not been so set for a tax year,

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does not require any change in the amounts repayable or deductible under PAYE regulations between the beginning of that year and such later date as may be specified in the order.]

- (2) The Treasury may by order make such modifications of any enactment as they consider necessary or expedient in consequence of or in connection [<sup>F10</sup>with an order under subsection (1), (1A) or (1B)]

<sup>F11</sup>(3) . . . . .

- (4) An order under this section may, to the extent that the Treasury consider it to be appropriate, take effect retrospectively from the beginning of the tax year in which the order is made.

[<sup>F12</sup>(5) The power under subsection (1) does not include power to provide that any income which is—

- (a) savings income, or
- (b) dividend income which would otherwise be charged to income tax at a rate provided for under section 13 of the Income Tax Act 2007,

is income which is charged to income tax at a rate provided for under section 11A of that Act.]

#### Textual Amendments

- F9** Ss. 80G(1)-(1B) substituted for s. 80G(1) (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 38 para. 16\(4\)](#)
- F10** Words in s. 80G(2) substituted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 38 para. 16\(5\)](#)
- F11** S. 80G(3) omitted (17.7.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 38 para. 16\(6\)](#)
- F12** S. 80G(5) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 38 para. 16\(7\)](#)

## 80H Reimbursement of expenses

The Scottish Ministers may reimburse any Minister of the Crown or government department for administrative expenses incurred by virtue of this Chapter at any time after the passing of the Scotland Act 2012 by the Minister or department.]

### [<sup>F13</sup>80H] Report by the Comptroller and Auditor General

- (1) The Comptroller and Auditor General must for each financial year prepare a report on the matters set out in subsection (2).

(2) Those matters are—

- (a) the adequacy of any of HMRC's rules and procedures put in place, in consequence of the Scottish rate provisions, for the purpose of ensuring the proper assessment and collection of income tax charged at rates determined under those provisions,
- (b) whether the rules and procedures described in paragraph (a) are being complied with,
- (c) the correctness of the sums brought to account by HMRC which relate to income tax which is attributable to a Scottish rate resolution, and
- (d) the accuracy and fairness of the amounts which are reimbursed to HMRC under section 80H (having been identified by it as administrative expenses

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incurred as a result of the charging of income tax as mentioned in paragraph (a)).

- (3) The “Scottish rate provisions” are—
- (a) any provision made by or under this Chapter, and
  - (b) any provision made by or under the Income Tax Acts relating to the Scottish basic rate, the Scottish higher rate or the Scottish additional rate.
- (4) A report under this section may also include an assessment of the economy, efficiency and effectiveness with which HMRC has used its resources in carrying out relevant functions.
- (5) “Relevant functions” are functions of HMRC in the performance of which HMRC incurs administrative expenses which are reimbursed to HMRC under section 80H (having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in subsection (2)(a)).
- (6) HMRC must give the Comptroller and Auditor General such information as the Comptroller and Auditor General may reasonably require for the purposes of preparing a report under this section.
- (7) A report prepared under this section must be laid before the Scottish Parliament not later than 31 January of the financial year following that to which the report relates.
- (8) In this section “HMRC” means Her Majesty's Revenue and Customs.]

**Textual Amendments**

**F13** S. 80HA inserted (17.7.2014 with effect in accordance with s. 297(2) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 297\(1\)](#)

[<sup>F14</sup>CHAPTER 3

TAX ON TRANSACTIONS INVOLVING INTERESTS IN LAND

**Textual Amendments**

**F14** Pt. 4A Ch. 3 inserted (1.7.2012) by [Scotland Act 2012 \(c. 11\), ss. 28, 44\(2\)\(b\), 44\(3\)\(b\)](#) (with s. 28(2))

**80I Tax on transactions involving interests in land**

- (1) A tax charged on any of the following transactions is a devolved tax—
- (a) the acquisition of an estate, interest, right or power in or over land in Scotland;
  - (b) the acquisition of the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power.
- (2) The tax may be chargeable—
- (a) whether or not there is any instrument effecting the transaction,
  - (b) if there is such an instrument, regardless of where it is executed, and
  - (c) regardless of where any party to the transaction is or is resident.

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## **80J Certain transactions not taxable**

- (1) Tax may not be imposed under section 80I on so much of a transaction as relates to land below mean low water mark.
- (2) The following persons are not to be liable to pay a tax imposed under section 80I—

### *Government*

A Minister of the Crown  
The Scottish Ministers  
A Northern Ireland department  
The Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh Assembly Government

### *Parliament etc*

The Corporate Officer of the House of Lords  
The Corporate Officer of the House of Commons  
The Scottish Parliamentary Corporate Body  
The Northern Ireland Assembly Commission  
The National Assembly for Wales Commission  
The National Assembly for Wales.]

## **[<sup>F15</sup>CHAPTER 4**

### **TAX ON DISPOSALS TO LANDFILL**

#### **Textual Amendments**

**F15** Pt. 4A Ch. 4 inserted (1.7.2012 with effect in accordance with s. 44(3)(c) of the amending Act) by Scotland Act 2012 (c. 11), ss. 30(1), 44(2)(b), (3)(c); S.I. 2015/638, art 2.

## **80K Tax on disposals to landfill**

- (1) A tax charged on disposals to landfill made in Scotland is a devolved tax.
- (2) A disposal is a disposal to landfill if—
  - (a) it is a disposal of material as waste, and
  - (b) it is made by way of landfill.]

**Status:**

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**Changes to legislation:**

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