EXAMPLES

1 Mr Brown is a director of Browns Ltd and has a salary of £60,000 and dividend income of £10,000 in 2016/17. He also pays £2,400 in pension contributions and gave £200 to charity in the year. Mr Brown will pay income tax of £15,050 in 2016/17 under the UK tax system. If the SRIT is 9% Mr Brown will pay SIT of £12,092 on his employment income less reliefs and UK income tax of £2,500 on his dividend income, a total of £14,592. If the SRIT is 11% Mr Brown will pay SIT of £13,009 on his employment income less reliefs and UK tax of £2,500 on his dividend income, a total of £15,509.

2 Mr White is a director of White Ltd and has a salary of £10,000 and dividend income of £60,000 in 2016/17. Mr White will pay income tax of £7,575 in 2016/17 under the UK tax system. He will not pay any tax at the Scottish rate as his personal allowance of £11,000 exceeds his employment income and the dividend income is subject to UK income tax and not the SRIT.

3 Mr Smith has a house in Edinburgh and a flat in London. He often works in London during the week and occupies his flat when there. He also works from his office in Edinburgh on occasion. Mr Smith will need to establish whether his house in Scotland is his main place of residence if he spends as much time in Scotland as he does in London or elsewhere in the UK. He will need to consider where his connections are, for example where his family lives, where he is registered to vote, which is his main residence for Council Tax. If a main residence cannot be established then status will be determined by counting the number of days spent in Scotland and elsewhere.

4 Mr Jones lives in Glasgow with his family and works nearby in Paisley. He does not travel with his work and has only his family home in Glasgow. Mr Jones will be a Scottish taxpayer.

5 Joe receives an annual payment of £5,500 from his family discretionary trust. The payment is treated as gross income of £10,000 with tax deducted at source of £4,500 (45%). Joe is an additional rate tax payer. If additional rate SRIT is 46% Joe will have additional tax to pay of £100 being 1% of £10,000. If additional rate SRIT is 44% then Joe will receive a repayment of £100.

6 Jim has a right to 50% of the income from his family trust. It is an interest in possession trust, not subject to the trust rates of income tax. The trust owns a portfolio of shares and Jim's share of the dividend income is £1,000 in 2016/17. Jim's share of the trust income will not be subject to SRIT as it is dividend income subject to UK income tax.

7 Grace is a higher rate taxpayer and donates £80 per year to her favourite charity. Under the UK tax rates the charity reclaims £20 and Grace is deemed to have made a gross donation of £100 obtaining £40 tax relief through her tax return. If the basic SRIT is 21% and higher SRIT 41%, Grace will be deemed to have made a gross donation of £101.26 and the tax relief she will obtain is £20.25, 25p more than a UK taxpayer. The charity will still receive £20.

This paper is based on legislation and guidance available at the date of writing and does not take into consideration the proposed changes from the UK Government's 2015 Budget to the taxation of dividends and savings income from 6 April 2016. Individuals should seek advice covering their own personal circumstances.

HENDERSON LOGGIE

Chartered Accountants

Scottish Rate of Income Tax (SRIT)

What you need to know

The Scottish Rate of Income Tax (SRIT) will come into effect on April 6th 2016 and, depending on the rate at which it is set, it could have a real impact on a person's net income and where they call home. A key question for many people is – am I a Scottish taxpayer? An even bigger question may be – do I want to be a Scottish taxpayer? The SRIT will be followed by the implementation of the Smith Commission proposals, most likely to take place in 2018.

What is the Scottish Rate of Income Tax (SRIT)?

At this time it is unknown. An announcement is expected by the Scottish Government when it publishes its draft budget for 2016-17 on 16th December 2015. The Scotland Act 2012 introduced the SRIT and it will be implemented in April 2016. The Act enables the UK basic rate, higher rate and additional rate of tax to be varied by 10%. For example if the SRIT is 9% then the Scottish basic rate would be 19%, the Scottish higher rate 39% and the Scottish additional rate 44%. If SRIT is 11% then the Scottish rates would be 21%, 41% and 46%. *See examples 1 and 2.*

Am I a Scottish taxpayer?

Guidance has recently been published by HMRC detailing how they will determine if you are a Scottish taxpayer. First and foremost you must be UK resident for tax purposes, often a complex decision process in itself. After that you must meet one of the following three conditions:

1. You are a member of the Scottish parliament

2. You have a 'close connection' with Scotland

3. If you have no 'close connection' then you spend more days in the tax year in Scotland than in any other part of the UK.

Many people may want to claim that they have a 'close connection' with Scotland, but in this context it means you have only one residence and that residence is in Scotland. If you have more than one residence, one of which is not in Scotland, then it will be necessary to establish which residence is your main residence.
See examples 3 and 4.

Do I have to tell HMRC that I am a Scottish taxpayer?

No. HMRC will write to all individuals who appear to be Scottish taxpayers based on the residential address they currently hold on their records. You will then have an opportunity to appeal this decision if you do not agree. You may have received a letter already.

Is all of my income going to be taxed at the SRIT?

No. The SRIT will not apply to savings income such as bank interest and dividend income, these will continue to be taxed at the UK rates.
See examples 1 and 2.

Will I continue to receive my personal allowance?

Yes, you will still be entitled to the UK personal allowance and the new savings allowance and dividend allowance when introduced in April 2016.

I receive income annually from a family trust, will this be taxed at the SRIT?

Yes. However, the trustees will be subject to tax at the UK tax rates providing you with a tax credit for the amount of tax paid at the UK rate. For example, a discretionary trust is liable to pay tax at 45% on its income, a distribution to a beneficiary, whether a Scottish taxpayer or not will have a tax credit of 45% but the recipient may be subject to the SRIT at 46% meaning additional tax will be payable. If the trust is an interest in possession trust then the trustees will pay tax at the UK rates depending on the type of income, you as a beneficiary will also be subject to tax depending on the type of income. For example if the income is dividend income then you will pay tax at the UK rate and not the SRIT, however if it is property income then the SRIT would apply.
See examples 5 and 6.

I am an employer, how will I know how to apply the correct rate of tax?

All Scottish taxpayers will be issued with a PAYE code prefixed with 'S', for example, S854L. If you use payroll software this should be updated to accommodate the SRIT. You should ensure this is possible. If the correct PAYE code is applied the right amount of tax will be collected. If any of your employees disagree with their taxpayer status then you should refer them to HMRC for a decision. At this time it is not expected that P60's will show any SRIT paid separately.

I have a PAYE settlement agreement (PSA) to cover certain benefits my employees receive, how will I calculate the tax payable?

You will need to calculate the tax due by applying the SRIT where applicable. If you have a mixed workforce of Scottish and non-Scottish taxpayers then this will make the calculation more complicated unfortunately.

I pay a number of contractors under the Construction Industry Scheme (CIS), do I still deduct 20%/30% tax from payments?

Yes, these amounts are akin to payments on account and represent an estimated tax liability. The contractor will calculate his or her own tax liability using the SRIT if they are Scottish taxpayers and deduct any tax paid under CIS from their final tax liability.

Will I get tax relief at the SRIT on my pension contributions?

Yes. If you are an employee and paying pension contributions to an occupational pension scheme deducted from gross pay then you will automatically get relief at the SRIT through the payroll. If you make pension contributions to a personal pension scheme out of net pay then your contribution is deemed to be net of basic rate tax at 20%. This will continue to be the case but with an adjustment for the SRIT through the PAYE system or self assessment.

I like to donate money to charity every year. Will the charity be able to reclaim the SRIT?

The charity will continue to reclaim tax at the UK basic rate, 20%. It is felt that it would be too burdensome to charities to calculate different rates of tax. If you are a Scottish taxpayer and pay tax at the Scottish higher rate or Scottish additional rate, then the amount of tax relief you will be entitled to will be the difference between the Scottish higher or additional rate and the Scottish basic rate. *See example 7.*

Is there more to come?

Yes, the Smith Commission proposals when enacted in legislation will allow the Scottish Parliament to alter the rates of income tax fully and also adjust the income tax bands. For example, the basic rate of income tax in Scotland may become 10% for the first £20,000 of income with the balance being taxed at 42%, or an additional rate of tax of 50% for income over £100,000.

Summary

Individuals and employers need to be prepared for the SRIT by ensuring they are aware of the implications for them. Individuals may need to keep detailed records of their whereabouts if residence status needs to be challenged. Employers need to ensure their payroll administration is prepared to deal with the changes in tax rates and consider how they will deal with a mobile workforce. Communication from HMRC may need to be supported by education from employers.