

Scottish Government Explanatory note: Scottish Rate Resolution 2021-22

Under section 80C of the Scotland Act 1998, the Scottish Parliament may pass a Scottish Rate Resolution (SRR) to set the rates and bands which will apply to Scottish non-savings, non-dividend taxable income for the following tax year. This note sets out draft wording for an SRR which would implement the rates and bands proposed in the Scottish Government's Budget 2021-22, and includes explanatory commentary.

The SRR motion was debated and agreed to by Parliament on 25 February 2021.

MOTION FOR A SCOTTISH RATE RESOLUTION

Kate Forbes, MSP: Scottish Rate Resolution – That the Parliament agrees that, for the purposes of section 11A of the Income Tax Act 2007 (which provides for income tax to be charged at Scottish rates on certain non-savings and non-dividend income of a Scottish taxpayer), the Scottish rates and limits for the tax year 2021-22 are as follows—

- (a) a starter rate of 19%, charged on income up to a limit of £2,097,
- (b) the Scottish basic rate is 20%, charged on income above £2,097 and up to a limit of £12,726,
- (c) an intermediate rate of 21%, charged on income above £12,726 and up to a limit of £31,092,
- (d) a higher rate of 41%, charged on income above £31,092 and up to a limit of £150,000, and
- (e) a top rate of 46%, charged on income above £150,000.

Commentary

The SRR motion agreed to by the Scottish Parliament on 25 February 2021, gives effect to the Scottish Government's Income Tax policy for 2021-22, namely:-

| Bands | Band name | Rates (%) |
|---------------------------|---------------------|-----------|
| Over £12,570* - £14,667 | Starter Rate | 19 |
| Over £14,667 - £25,296 | Scottish Basic Rate | 20 |
| Over £25,296 - £43,662 | Intermediate Rate | 21 |
| Over £43,662 - £150,000** | Higher Rate | 41 |
| Above £150,000** | Top Rate | 46 |

*Assumes individuals are in receipt of the Standard UK Personal Allowance.

**Those earning more than £100,000 will see their Personal Allowance reduced by £1 for every £2 earned over £100,000

The Scotland Act 2016 devolved power to the Scottish Parliament to set the rates and bands of Income Tax payable by Scottish taxpayers on their non-savings and non-dividend income for the purposes of section 11A of the Income Tax Act 2007.

In accordance with section 80C(6) of the Scotland Act 1998 and Parliament's Standing Orders, only a member of the Scottish Government may lodge and move a motion for an SRR. Under Standing Orders, the motion for the rate resolution must be moved before the start of the tax year to which it refers and before the commencement of Stage 3 proceedings on the associated Budget Bill. The Standing Orders also provide that an SRR motion cannot be amended.

Given the connection between the Budget Bill and the passing of this motion, Rule 8.10.2(c) and Rule 9.16.7 mean that the motion must be moved and agreed to before the Stage 3 proceedings for the Bill, and the Stage 3 proceedings cannot commence until the Scottish Parliament agrees the motion.

The rest of the Income Tax system, including the Personal Allowance, all tax reliefs and the collection and management of Income Tax remain reserved. As such, HMRC will continue to collect Scottish Income Tax.

The SRR sets the Income Tax rates and bands of income above the Personal Allowance. It therefore sets what are Scottish rate limits, rather than thresholds. This is because, although there is a standard personal allowance (£12,570 for tax year 2021-22), this can then vary for a number of reasons, including the Marriage Allowance or the Blind Persons' allowance. The band thresholds are made up of an individual's tax-free allowance plus the relevant rate limit set out by the SRR. The Personal Allowance is reduced by £1 for every £2 earned over £100,000, therefore the Personal Allowance is not relevant to the £150,000 limit for the higher rate, which will be equal to the top rate threshold.