Introduction
1. The Scottish Environmental Services Association (SESA) is the trade association representing Scotland’s waste and secondary resource industry. Driven by EU environmental law, we are a leading partner in Scotland’s transformation from a disposal to a zero waste society: we have helped Scotland’s household recycling rate increase to over 40%.

2. Two out of every three voters in Scotland believes the waste management services our Members provide in partnership with local authorities is the most valued local service.

Opening remarks
3. The landfill tax arguably represents one of the greatest levers available to influence the management of waste in Scotland and across the UK, as the landfill tax escalator has made viable more sustainable waste solutions that would otherwise remain undeveloped.

4. The standard rate of landfill tax has been rising by £8 a year until at least £80/tonne by 2014, where a floor will be placed at this rate. SESA suggests that the floor under the landfill tax rate should remain to act as a long term driver to encourage investment in alternative waste infrastructure.

5. SESA recommends that:
   • the landfill tax escalator should not be extended beyond 2014, as further tax increases would penalise waste producers and increase costs for local authorities during a time of financial strain. The current landfill tax escalator already acts as a strong disincentive to landfill;
   • the Scottish landfill tax system should be consistent with the rest of the UK;
   • clearer guidance is made available to the industry on the range of materials that qualify for the lower rate of landfill tax.

whether the Bill is consistent with the four principles underlying the Scottish Government’s approach to taxation – certainty, convenience, efficiency and proportionate to the ability to pay;

6. The Scottish Government appears to have drafted the Bill as an enabling framework, with specific detail on how the new tax regime might apply in practice to follow later in secondary legislation. As the Bill offers the industry little in the way of certainty then we would have to argue that it is not consistent with the principles described above.

7. We would much prefer to see greater clarity and detail in primary legislation to inform the democratic process. The Bill instead seeks wide executive powers where the likely character of their execution remains opaque.
the decision not to introduce significant changes to the form or structure of the existing UK Landfill Tax;

8. SESA strongly supports this approach. The cost of waste management in Scotland should be broadly the same as the rest of the UK: environmental criminals might otherwise exploit regulatory arbitrage between Scotland and England, leading to both “waste tourism” and higher levels of flytipping.

the use of the same list of qualifying materials as specified in the Landfill Tax (Qualifying Material) Order 2011;

9. As above, as most of SESA’s Members operate on a UK-wide basis we support a consistent approach across the UK to implementation and regulation of landfill tax. However, we suggest that there is scope for the Scottish and UK Governments to work closely together to provide the industry with much clearer practical guidance on the materials and corresponding properties (e.g. physicochemical) which qualify for the lower rate of tax.

the intention to set tax rates in subordinate legislation and in “such a way that rates will follow closely UK rates”;

10. SESA supports the Scottish Government’s intention to set landfill tax rates which mirror that of the UK. However, the reference above to rates which “follow closely” UK rates remains rather ambiguous and fails to provide the industry with certainty or clarity of the new taxation landscape. This potentially undermines investment decisions in alternative (i.e. non-landfill) waste treatment capacity.

11. If certainty is indeed an underlying principle of the Scottish Government’s approach to taxation it appears somewhat of a curious omission that there is nothing on the face of the Bill to indicate what tax rate will apply from 2015, or even clarification that landfill rates will in fact mirror that of the UK. Instead, a rather tentative attempt to provide assurances to the industry is relegated to the Bill’s explanatory notes.

12. The landfill tax arguably represents one of the greatest levers available to influence the management of waste in Scotland, as the landfill tax escalator has made viable more sustainable waste solutions that would otherwise remain undeveloped.

13. The absence of any reference in the Bill to the landfill tax rate is all the more curious given Mr Swinney’s recent comments that the landfill tax was a cornerstone of Scotland’s Zero Waste Plan.

the power in the Bill to establish more than two tax rates and to vary the list of material qualifying for different tax rates in subordinate legislation;

14. The price differential between landfill and non-landfill waste management options is a key driver for delivering alternative (non-landfill) waste infrastructure. Therefore, in seeking to introduce different rates for certain materials we urge the Scottish Government to carefully consider the economic implications of price variation for different materials. As above, criminals and others might seek to exploit significant regulatory and price variations in the cost of landfill disposal across the UK.
15. SESA fully understands the Scottish Government’s ambitious zero waste agenda, but cautions against introducing too much complexity into the Scottish landfill tax system, as it would become harder to administer.

**the provisions which will allow the tax authority to pursue taxes evaded through the illegal dumping of waste;**

16. Illegal waste management activity is a national problem requiring strong leadership and resources sufficient to create a climate where the fear of being caught is high. With the introduction of new, higher environmental standards and the increase in the landfill tax this has never been so important.

17. We believe that more resources should be invested in tackling illegal waste management activity to provide a high level of protection for communities and responsible waste management companies across the country. We support proposals in the consultation to allow recovery of avoided tax from illegal dump sites.

**the list of activities and materials which are exempt from landfill tax;**

18. The tax exempt materials and activities contained within clauses 7-10 (part 2) directly replicate relevant provisions of the Finance Act 1996, and remain fit for purpose.

**the Scottish Landfill Communities Fund;**

19. We strongly support the continuation of the Landfill Communities Fund (LCF) which reaches many communities which otherwise are unable to obtain funds to improve local amenities and biodiversity. The LCF has become a critical source of funds for a wide range of organisations and delivers those funds in a highly cost effective manner and with great integrity. The Fund’s widely acknowledged success can be further built up with the proposed extension of the credit limit.

20. While there is no direct reference in the Bill, we understand that broad powers conferred under clause 20 would be used by the Scottish Government to change the delivery, regulation and eligibility of projects under the LCF.

21. SESA notes that the current delivery model has been tried and tested over many years and there is general agreement amongst landfill operators and fund recipients that the current model works very well.

22. We therefore do not support proposals to extend eligibility for funds beyond the existing 10 mile radius or to use a proportion of the LCF to support the Scottish Government’s strategic environmental objectives. The relatively small fund would be diluted by extending its remit, leaving less available to those communities experiencing the most direct disbenefit.

**the role of Revenue Scotland in the administration of the tax;**

23. No comment.
24. Though details are lacking in the Bill, we understand that the existing self-assessed approach (for tax liability) could be replaced by a central system, in which SEPA would be responsible for calculating an operator's tax liability.

25. SESA is not convinced that proposals for a centrally assessed system would offer any advantages over the current system and, in particular, is concerned that SEPA would lack the necessary resources and technical expertise to carry out proposed new landfill tax assessment duties. Additional resources would need to be in place to handle any disputes or appeals associated with SEPA's assessment of tax liability.

26. We note that the self-assessed approach is used by companies to calculate a whole range of existing tax liabilities and the Scottish Government has not put forward a robust case to suggest why landfill tax liability should be handled any differently. Furthermore, there is no evidence presented in the accompanying impact assessment to suggest that the current self-assessed system is ineffective or subject to abuse. In fact, page 27 of the explanatory notes confirms that compliance rates are high under the existing tax system.

27. No comment.

28. We are not convinced by the case that the new system would reduce administrative burdens on landfill operators (page 27, paragraph 59) if, as proposed, the Scottish Government intends to introduce differential rates of tax on a range of specified mat