1. CIWM (Scotland) thanks the Finance Committee for the opportunity to provide a written response to their letter of the 24th April 2013. CIWM (Scotland) provided written evidence to the Scottish Government’s consultation on the Scottish Landfill tax in November 2012 and on this occasion respond to the questions as outlined in the correspondence.

2. The Bill, as presented, provides the basis for the implementation of a replacement Scottish landfill tax regime in Scotland, but much of the detail is to follow in subordinate legislation. For example the Bill makes no reference to any standard or lower rate of taxation nor does it provide any details of qualifying material or escalator, and we are left with the Policy Memorandum to advise us that at the time of introduction, the Bill and its subordinate legislation will broadly reflect that of the UK Landfill tax regime as it stands at present.

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

3. As it stands, and provided the Scottish Landfill Tax and its subordinate legislation remains consistent with the UK regime then CIWM (Scotland) believes the Bill is consistent with these principles.

The decision not to introduce significant changes to the form or structure of the existing UK Landfill Tax

4. This is a reasonable approach ensuring there is no disparity between the rest of the UK and Scotland in relation to the movement of wastes and the associated costs of disposal. It will also allow Scotland to adapt the tax in a considered and incremental manner to support the direction of future Scottish waste policy.

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

5. CIWM (Scotland) are broadly supportive of the existing list currently in use and welcome the consistency being offered and the opportunity to be consulted, if and when Scottish Ministers decide to modify the qualifying material list.

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

6. The Policy Memorandum states that the Scottish Government will set rates at a level no lower than the Landfill Tax, but rates could be set higher in future with the possibility of establishing a third tax rate. This means the profile of taxation generated compared to the rest of the UK will shift through time. However, setting initial rates similar to the rest of the UK makes sense at this stage.
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

7. The suggestion made is that an additional rate for stabilised material might be needed. This is a reasonable approach since it gives the Scottish Government some flexibility to consider how best to manage waste which has not been thermally treated (for example), but has reached some degree of stabilisation in terms of its biodegradability. However, this opens up a wider debate on defining when waste has been stabilised. For the moment CIWM (Scotland) would support the ability to introduce a third rate, and will respond to any resultant consultation.

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

8. As CIWM (Scotland) understands it, the Bill considers authorised and unauthorised landfill activities as being taxable disposals. HMRC guidance states that “any material which is deposited at a site which is not subject to a waste management licence or permit under environmental law is not liable to tax”. In the Bill waste disposed at permitted landfills and exempt sites and indeed unauthorised sites (presumably illegal disposal activities) would all become taxable disposals. CIWM (Scotland) supports this approach in principle, but presumably disposal at unauthorised sites at the present time is already an illegal activity and SEPA would need to provide additional resources in order to bring such activities into the tax regime and to apply any criminal sanctions. Subordinate legislation will need to define how the weight of such illegally disposed waste would be determined for taxation purposes.

The list of activities and materials which are exempt from landfill tax

9. These are reasonable and consistent with the existing regime.

The Scottish Landfill Communities Fund

10. CIWM (Scotland) supports such a scheme and welcomes the Scottish Government's intention to allow a 10% increase to the amounts which can be directed through the scheme. No detail is provided on how the scheme will work and CIWM (Scotland) will respond to any future consultation.

The role of Revenue Scotland in the administration of the tax

11. As Scotland assumes devolved taxation powers, it seems reasonable for a body, Revenue Scotland, to be established. CIWM (Scotland) does note that the current landfill tax self-assessment and reporting scheme works well and would expect any assessment and reporting scheme introduced by Revenue Scotland and SEPA to not lead to any additional burdens on the landfill operators.

The role of SEPA in the administration of the tax

12. CIWM (Scotland) did express concern about this in our earlier consultation response, but clearly Scottish Government are of a view that SEPA is well placed to fulfil its environmental and fiscal regulatory responsibilities. Our principal concern is that the reporting of the taxable disposals does not result in increased administrative burden on the landfill operator. CIWM (Scotland) await the details of how Revenue Scotland and SEPA intend to administer the scheme, before commenting further.
The formula for calculating the adjustment to the block grant
13. This is a reasonable approach since the net tax loss/gain to both the Scottish and UK Governments remain zero when the transfer occurs.

The financial implications of the Bill as estimated in the Financial Memorandum
14. The income generated by the tax is in line with our understanding. As the Waste (Scotland) Regulations take effect, we can expect to see less revenue generated, but it is difficult to determine how much this will reduce by.

15. In terms of administrative costs, the Land and Buildings Transactions Tax (LBTT) will raise three times the revenue raised by the Scottish Landfill Tax, and given the number of stakeholders involved, most of the Revenue Scotland costs will be associated with the LBTT. If as suggested Revenue Scotland hand over much of the responsibility for collection to SEPA, then the running costs of £300k to SEPA seems reasonable. However, the Bill proposes illegal disposal as a taxable disposal, and there should be some provision to allow SEPA to pursue such illegal activity. The budgets make no provision for this.