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Convener
Finance and Public Administration Committee
The Scottish Parliament
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15 May 2024

Dear Convener,

I write in response to the Finance and Public Administration Committee's Stage 1 report on the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill ("the Bill"). I would like to thank the Committee for its careful and detailed consideration of the Bill

Annex A responds to each of the main recommendations in the Report, using the section headings and paragraph numbers in the report.

I hope that my response addresses the issues raised in the Committee's Stage 1 report and is helpful in your further consideration of the Bill. I look forward to debating the Stage 1 report on the 16th May.

I thank the Committee for endorsing the general principles of the Bill and look forward to continuing to work with the Committee on this important Bill at Stage 2.

Yours sincerely,

TOM ARTHUR

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Issues raised with the Committee during its evidence taking on Part 1 of the Bill

41. We welcome Revenue Scotland's plans for continued engagement with the industry in advance of the tax being introduced in April 2026, including via early publication of taxpayer guidance, webinars and outreach events for taxpayers.

Both the Scottish Government and Revenue Scotland will continue to take a proactive approach to engagement in advance of the introduction of the Scottish Aggregates Tax.

Revenue Scotland has advised the Scottish Government that it intends to commence a programme to engage stakeholders in the design of the tax return, a review of their technical guidance, system design, user acceptance testing and other necessary requirements during the development of the online tax collection system.

51. The tension between keeping the tax simple for business across the board and maximising recycling rates was a key area of questioning during the Committee's scrutiny. The Committee has reservations regarding the potential of SAT to incentivise the switch to recycled secondary products and reduce the use of natural products, as per the aims stated in the policy memorandum, without an increase in the tax rate above that currently charged, or broadening the use and classification of recycled aggregates.

The Scottish Government's approach to the design of Scottish Aggregates Tax reflects the specific provisions in the Scotland Act 2016, extensive engagement with stakeholders and all available data regarding the existing UK Aggregates Levy.

The Scottish Government is clear that while the Scottish Aggregates Tax can provide a price signal to encourage the use of recycled, secondary and alternative aggregates, achievement of the overall circular economy objectives will also depend on the other circular economy policies set out in the Circular Economy and Waste Route Map. The introduction of a Scottish Aggregates Tax will also allow the Scottish Government to control the levers of both aggregates and landfill taxes, ensuring that they work effectively in tandem to support our circular economy agenda.

The Scottish Government recognises the need to improve the data on recycled and alternative aggregates and will commission research both on the use and scale of application of recycled and alternative aggregates available and the role of the Scottish Aggregates Tax in supporting their use. This research project will commence later this year and will be undertaken by ClimateXChange, Scotland's centre of expertise on climate change.

The Scottish Government will continue to work with the Scottish Aggregates Tax Advisory Group and other stakeholders to develop an approach to rate setting policy, taking account of the range of views expressed on this. Decisions on this will be taken separately from the Bill process. The Scottish Government's overall approach is intended to provide continuity and certainty for taxpayers while ensuring that the devolved tax can evolve over time to support Scottish Government circular economy objectives.

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52. While we understand the current limitations with regards to the availability of disaggregated data for the UKAL in Scotland, the Committee is strongly of the view that such data is needed in order to establish the tax elasticity and enable future governments to set an appropriate rate of tax that will achieve the above stated aims while effectively managing the challenges and risks of behavioural change.

As the Committee will be aware from the evidence sessions, it is not possible for HMRC to report disaggregated UK Aggregates Levy data at a Scotland or sub-Scotland level. This is because UK Aggregates Levy tax returns are made at the company level and on a UK wide basis, with a single return comprising information from all sites operated by a group. Specific tax information is also not available regarding the movement of materials across borders within the UK.

The Scottish Government is working closely with Revenue Scotland to consider opportunities for improved data collection as part of the Scottish tax return. When Revenue Scotland begin to administer the tax, more detailed information will be available to inform future decisions relating to the structure of the tax and tax rate.

In the interim, the Scottish Government is taking steps to improve the data to inform decisions regarding the Scottish Aggregates Tax. In particular we commissioned the British Geological Survey (BGS) to produce a 2019 Scotland-only survey of aggregate production and activity, and are now involved in a UK wide survey based on 2023 data. When the results of this survey are available in early 2025, they will provide valuable information about both aggregates production in Scotland and on cross-border flows.

58. The Committee requests that the Scottish Government provides any data currently available on the cross-border movement of aggregates.

59. We would further welcome clarification from the Scottish Government regarding what measures will be taken to address the potential risks identified and ensure that the new system is not open to abuse, once live.

As noted in response to paragraph 52, current arrangements for the UK Aggregates Levy do not allow for the collection of data regarding the cross-border movement of aggregates.

The Aggregate Minerals Survey Scotland (2019) undertaken by the BGS estimated that 6.3 million tonnes of primary aggregates were exported or moved from Scotland in 2019. This included nearly 2.5 million tonnes moved to England from Scottish quarries. This was predominately crushed rock from Highland, with smaller contributions from sites in other regions of Scotland¹.

In terms of flows into Scotland, the Aggregates Minerals Survey England and Wales (2019) estimates that 0.8 million tonnes of material were imported to Scotland from England and Wales². A new survey on behalf of the Scottish, UK and Welsh Governments will provide updated estimates of cross-border movements for 2023.

¹ [2019 Aggregate Minerals Survey for Scotland - gov.scot \(www.gov.scot\)](http://www.gov.scot)

² [Aggregate minerals survey for England and Wales, 2019 - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

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The Scottish Government is working closely with Revenue Scotland to develop an effective and efficient system for the administration of Scottish Aggregates Tax, recognising that the movement of aggregate between Scotland and the rest of the UK may present a tax compliance risk.

When Revenue Scotland begin to administer the tax, they intend to collect information regarding the cross-border tax credit within the tax return so that those taxpayers who present a risk with regard to cross-border tax credits can be more easily identified. The Bill provides powers for Scottish Ministers to make regulations regarding specified tax credits. Where commercial exploitation is in principle deemed to have occurred, tax credits allow for a reduction in tax liability in real terms based on the specific circumstances.

For the purposes of Scottish Aggregates Tax, tax credits (rather than exemptions) have been chosen where the end use of the aggregate might be uncertain at the point of exploitation, which may give rise to a greater tax compliance risk. Therefore, aggregates producers who are responsible for moving aggregate to Scotland from the rest of the UK will be required to register for Scottish Aggregates Tax and claim a UK Aggregates Levy cross-border credit.

Revenue Scotland will work closely with HMRC to share information and manage mutual tax compliance risks. Revenue Scotland will also continue to work with taxpayers and other stakeholders to develop robust administrative processes to aid in compliance and enforcement.

70. The Committee was concerned to hear about the potentially significant levels of non-compliance with the existing aggregates tax regime. We welcome Revenue Scotland's intended approach to compliance and stress the importance of effective data collection and enforcement to ensure a level-playing field for the industry and contribute to the Bill's overall aims.

71. To ensure compliance with the new tax regime, we believe Revenue Scotland should work closely with local authorities, as these will be better informed with regards to quarrying activity in their local areas.

72. We look forward to reviewing the compliance work undertaken, as part of our ongoing scrutiny of Revenue Scotland's performance.

Whilst the Scottish Government cannot comment on the extent of any non-compliance related to the UK Aggregates Levy, the Bill provision that allows for the charging of tax on those who purchase taxable aggregate from unregistered suppliers responds directly to stakeholder asks for action to help ensure a level playing field. The Bill also requires Revenue Scotland to publish and maintain a public register of taxpayers, which will enable customers to ensure that they are buying aggregate from a registered supplier.

Revenue Scotland will undertake active compliance work when the Scottish Aggregates Tax is operational. Engagement with stakeholders is now underway to develop a robust registration and return process and the tax authority is also investigating different sources of information to aid in compliance and enforcement.

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Revenue Scotland has also advised that it will hold discussions with local authorities to understand how information can be shared for the mutual compliance benefit of both Revenue Scotland and councils.

Issues raised with the Committee during its evidence taking on Part 2 of the Bill

79. The Committee shares the concerns raised that Part 2 of the Bill was not subject to any consultation with stakeholders other than Revenue Scotland prior to the Bill being introduced. This approach does not support effective policy-making.

80. However, we welcome the Minister’s assurances and commitment that a consultation will precede the introduction of any regulations relevant to measures included in Part 2 of the Bill and recommend that this commitment is made explicit on the face of the Bill.

I recognise that the standard consultation practice was not followed regarding Part 2 of the Bill, and acknowledge the concerns raised on this.

As set out in the accompanying documents to the Bill, the Scottish Government’s position has been that the relevant provisions in Part 2 of the Bill are either minor points of clarification, aimed at creating consistency with powers already applying in Scotland for UK Taxes, and/or they relate to areas where full public consultation will be conducted before any secondary legislation proposals are brought forward.

The Scottish Government confirms that it will undertake a full consultation prior to bringing forward any regulations relevant to the measures included in Part 2 of the Bill. Although it is not standard practice to do so for tax legislation, the Scottish Government will carefully consider for Stage 2 the Committee’s recommendation that a requirement to consult is explicitly set out in the Bill.

82. The Committee was reassured by the Minister’s commitment to “providing a full opportunity for parliamentary scrutiny on top of the public and stakeholder consultation and engagement” in relation to the regulations that would be brought forward regarding the Bill’s provisions on automation, so that risks may be fully examined.

83. However, we would welcome further information from the Scottish Government at this stage on how the power of automation is intended to be used by Revenue Scotland and what measures will be taken to address the risks associated with automation and digital exclusion to protect the taxpayer.

Although the exact manner in which the power to regulate the use of automation by Revenue Scotland will be a matter for consultation, the Bill provision is intended to enable Revenue Scotland to automate those decisions which do not require an exercise of discretion or judgement.

One such example of this would be Revenue Scotland’s function to assess and notify a penalty where a Land and Buildings Transaction Tax return is late. Decisions on whether a return is late are not discretionary and can generally only be determined by the date the

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return/payment was due and the date of receipt. As Revenue Scotland currently incurs significant operational time and resource in the handling of such penalties, the automation of this process would provide operational and resource benefits with no adverse consequences for taxpayers.

I do not intend that the automation of decision making should be considered for any areas that require human judgement. This would include for example, a section 98 assessment related to loss of tax which requires a Designated Officer to come to a view “honestly and reasonably”. I will, however, ensure that a full risk analysis is undertaken as part of the process to inform the development of any relevant secondary legislation and work with Revenue Scotland to ensure that appropriate governance is implemented to minimise and address any risks related to this power.

At present, I do not intend this power to be used by Revenue Scotland to make tax decisions using AI. Revenue Scotland’s focus will be on the use of automated IT tools to support efficient and robust decision making. Over time the nature and content of the regulations under this power may evolve, but this would only be undertaken following public consultation on the proposals.

I am conscious that, while there is an overall trend towards the use of digital systems, it is essential that those who cannot engage digitally are not excluded or discriminated against. I will continue to work with Revenue Scotland to ensure that they engage with taxpayers through appropriate digital and non-digital means.

86. The Committee notes concerns raised by stakeholders regarding the lack of safeguards should there be a dispute between Revenue Scotland and taxpayers whether an amount of tax is outstanding. By not consulting on these provisions before the Bill was laid, a valuable opportunity for the Scottish Government to discuss stakeholders’ concerns was lost.

87. While we welcome Revenue Scotland’s assurances, provided in both written and oral evidence, that set-off measures will be used only where the amount due is undisputed, the Committee is concerned that this approach is not explicitly set out in the Bill as introduced.

88. The Committee would welcome further reassurance and clarification from the Scottish Government regarding what protection will be afforded to taxpayers under Sections 52 and 56 of the Bill, should a dispute arise with Revenue Scotland on the amount of tax owed

Section 56 will give Revenue Scotland a power to set taxpayer credits (money owed to the taxpayer) against taxpayer debits (money owed to the revenue authority). The Scottish Government considers that, on balance, this is an appropriate and proportionate power to have in a self-assessed tax system. The tax debits which Revenue Scotland deal with are primarily amounts which taxpayers themselves have declared they are due to pay and so there should be limited disputes over the amount of tax owed.

As noted during the evidence sessions, there is no intention that Revenue Scotland would use set-off provisions where there is a dispute over the amount of tax owed. The debit must be properly quantified and already payable i.e. the amount must have been agreed with the

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taxpayer and either the time for an appeal has passed or the appeal has been determined. In addition to this, the legislation is clear that the credit and debit must be due to and from the same person, acting in the same capacity.

The precise application of any set-off arrangements, if approved by Parliament, will be set out in detail in guidance prepared by Revenue Scotland. Revenue Scotland will produce clear guidance, which will be informed by stakeholder engagement, to ensure that taxpayers are aware of their options should they wish to dispute an amount of tax that may be subject to set-off.

93. The Committee notes the views of stakeholders that the process for agreeing changes to devolved taxes could benefit from more transparency and clarity. We will consider over the remaining months of this Parliament how this might be achieved.

I have noted stakeholders' continued calls for a regular Finance Bill or similar process in Scotland and would be happy to discuss this matter further with the Committee.

Accompanying documents

103. The Committee asks that the Scottish Government provides, in its response to this report, an update on the progress of discussions with HMRC regarding the cost of 'switching off' the UKAL in Scotland.

Following the introduction of the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill, HMRC is developing an estimate of the costs of switching off the UK Aggregates Levy in Scotland. The Scottish Government will update the Committee as soon as additional information is available.

109. This Committee agrees with the recommendations made by the DPLRC in their report and recommends that the Bill is amended as it has suggested.

110. As requested by the DPLRC, we gave further consideration to Section 37(2)(a) - Power to specify a relevant person to which Revenue Scotland may delegate any of its functions relating to SAT. We recommend that the Scottish Government amends the Bill to provide further clarification on the circumstances in which this power will be used.

111. We also noted earlier in this report the Scottish Government's assurances that the introduction of regulations relating to provisions in Part 2 of the Bill will be preceded by full consultation, and we restate our request that this commitment is made explicit in the Bill.

The Scottish Government has confirmed in separate correspondence with the DPLRC that amendments to the Bill will be brought forward at Stage 2 in line with their recommendations that the relevant legislative procedure for powers to specify the rate of tax for the first time, and to add or remove items from a list of relevant substances, should be affirmative.

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In relation to section 37(2)(a), the Bill enables Scottish Ministers to delegate particular functions in relation to Scottish Aggregate Tax to specified organisations.

Although there is no single specific body in Scotland at this point in time to which functions could appropriately be delegated, the Scottish Government and Revenue Scotland consider that this is an important power to maintain in the Bill. This is on the basis that operational experience may highlight that another body can provide a material benefit to the collection or administration of the tax.

This power will allow Scottish Ministers to ensure Revenue Scotland can take advantage of the benefit of operational experience but would only be exercised following consultation. Examples of Revenue Scotland delegating its functions can be seen in the other devolved taxes such as where delegated powers have been given to Registers of Scotland in relation to Land and Buildings Transaction Tax and to the Scottish Environmental Protection Agency in relation to Scottish Landfill Tax.

Given the above, and given any order made using these powers would be subject to Parliamentary scrutiny (affirmative procedure), the Scottish Government is satisfied that the scope of this power is appropriate. In addition, under section 4 of the Revenue Scotland and Tax Powers Act 2014 Act, Revenue Scotland would be required to publish information about the delegation of its functions and to lay that information before Parliament, providing further Parliamentary oversight of this power.

In relation to the Bill's Part 2 regulation making powers, I am fully committed to consulting with stakeholders ahead of any regulations relevant to the measures included in Part 2 of the Bill and I am considering ahead of Stage 2 whether this requirement should be placed on the face of the Bill.

Conclusions and recommendations on the general principles of the Bill

112. Under rule 9.6.1 of Standing Orders, the lead committee is required to report to the Parliament on the general principles of the Bill. In doing so, the Finance and Public Administration Committee has taken into consideration the evidence from a range of stakeholders.

113. Overall, the Committee is supportive of the Bill's aims. However, we note the current lack of data available which poses difficulties in relation to setting the rate for the tax. Significantly more research and data are needed to establish the elasticity of demand and inform the rate-setting process in a way that will contribute to the aims stated in the policy memorandum. We look forward to receiving the results of the survey currently being carried out, which will help to inform the decisions around setting the rate for the tax.

114. The policy memorandum states that the Bill will support the Scottish Government's ambitions for a circular economy through "encouraging the minimum necessary exploitation of primary aggregates ... maximising the use of secondary and recycled aggregates, and ... incentivising innovation and development or alternative materials". Given the limited scope of the Bill, however, and the focus on continuity, the Committee has reservations about its potential to contribute to fulfilling those

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ambitions. We would like to see more action being taken to incentivise investment in recycling and diverting material from landfill.

115. In response to the Committee's concerns, the Minister explained that the prudent approach taken in developing the Bill, of broad alignment of the SAT with UKAL, reflects the requirement for stability and confidence expressed by industry and the lack of data and ability to assess behavioural effects. However, he emphasised the tax is "just one tool among many", sitting alongside regulatory interventions and policy approaches. As more data is gathered once the tax is introduced, there will be an opportunity for it to be further tailored to Scotland's needs and ambitions, alongside other devolved taxes; "this will be done in a way that is consistent with our 'Framework for Tax 2021' principles, by making sure that we have a fully developed evidence base and understanding of the potential behavioural responses to any tax change". He noted that the Bill "will provide scope for [...] a more distinctive approach to the tax in the future, which will be based on operational experience and an improved evidence base". This was endorsed by stakeholders such as the Law Society of Scotland who referred to the LBTT as an example where devolution of a tax allowed for it to be adapted to Scots law and conveyancing practice.

116. The Committee was reassured to hear that the Bill represents only the starting point, reflecting broad consensus from industry, and that the tax will be developed, and rates determined by future Governments based on data and analysis of behavioural responses. The interaction with the Scottish Landfill Tax will be particularly relevant to the Government's stated aims.

117. In its evidence to the Committee, the Minister highlighted specific provisions to address compliance concerns relating to unregistered quarries as another important area of distinction in the Bill. These will allow Revenue Scotland to tax anyone in the supply chain if a non-registered site is used, with a view to ensuring that all purchasers of aggregates use registered sites. Given the proportional impact of the tax on Revenue Scotland's work, it will allow the tax authority to "bring a level of attention and focus" to the tax that was just not possible under UKAL, given the UKAL's modest contribution within the suite of taxes administered by the HMRC. We welcome Revenue Scotland's approach to compliance and believe the measure could have more potential to address concerns raised by the industry.

118. We also note that, in the context of current plans to replicate the UKAL regime, it remains uncertain whether the revenues raised and the BGA will largely offset each other. If this broad approach of replicating UKAL is maintained when it comes to setting the SAT rate, we note that the tax is not expected to increase the Scottish budget to any significant extent.

119. In conclusion, the Committee supports the general principles of the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill and recommends to the Parliament that they be agreed to. The Committee looks forward to receiving the Scottish Government's response to the recommendations and comments contained in this report.

The Scottish Government welcome the Committee's report and its support for the general principles of the Bill. All the Committee's recommendations will be considered ahead of

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Stage 2, and the Committee's overarching feedback on the Bill's circular economy ambitions and the data challenges are addressed above.

In response to the Committee's comments on the revenue that will be raised by the Scottish Aggregates Tax and the Block Grant Adjustment arrangements, tax receipts from the Scottish Aggregates Tax will vary depending on the tax rate set, the level of commercial exploitation of primary aggregates in Scotland, and the value of exemptions and credits claimed.

As with the other devolved taxes, the net effect on the total Scottish Budget will depend on tax receipts from the Scottish Aggregates Tax, offset by an adjustment to Scotland's block grant. Discussions regarding the Block Grant Adjustment arrangements for this tax are underway between the UK and Scottish Governments, taking account of the Fiscal Framework. That process will include consideration of cross border flows of aggregate.

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