

# Aggregates Tax and Devolved Taxes Administration (Scotland) Bill

[AS PASSED]

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**Amendments to the Bill since the previous version are indicated by sidelining in the right margin. Wherever possible, provisions that were in the Bill as introduced retain the original numbering.**

# Aggregates Tax and Devolved Taxes Administration (Scotland) Bill

[AS PASSED]

An Act of the Scottish Parliament to make provision for a tax on the commercial exploitation of aggregate; and to make further provision about the administration of devolved taxes.

## PART 1

### SCOTTISH AGGREGATES TAX

#### CHAPTER 1

##### THE TAX

#### 1 The tax

(1) A tax (to be known as Scottish aggregates tax) is to be charged on aggregate when it is subjected to commercial exploitation in Scotland.

(2) Revenue Scotland is responsible for the collection and management of the tax.

#### 2 Overview of Part 1

(1) This Part is arranged as follows.

(2) This Chapter establishes Scottish aggregates tax and provides an overview of Part 1 of the Act.

(3) Chapter 2 contains provisions about the key concepts underlying the tax, including—

- (a) which aggregate is taxable,
- (b) which aggregate is exempt from the tax,
- (c) what is commercial exploitation, and
- (d) who is liable to pay the tax.

(4) Chapter 3 contains provisions about the calculation of the tax, including—

- (a) how the tax is calculated, and
- (b) when credit is available in relation to the tax.

(5) Chapter 4 contains provisions about the administration of the tax.

- (6) Chapter 5 contains provisions about penalties in relation to the tax.
- (7) Chapter 6 contains provisions about reviews and appeals of decisions by Revenue Scotland in relation to the tax.
- (8) Chapter 7 contains provisions about interpretation.

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## CHAPTER 2

### KEY CONCEPTS

#### *Meaning of “aggregate”*

### 3      **Meaning of “aggregate”**

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In this Part “aggregate” means (subject to section 4) any rock, gravel or sand, together with whatever substances—

- (a) are for the time being incorporated in the rock, gravel or sand, or
- (b) naturally occur mixed with it.

### 4      **Excepted processes**

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- (1) In this Part references to aggregate—

- (a) include references to the spoil, waste, off-cuts and other by-products resulting from the application of any excepted process to any aggregate, but
- (b) do not include references to anything else resulting from the application of any excepted process to any aggregate.

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- (2) In this Part “excepted process” means—

- (a) the cutting of any rock to produce stone with one or more flat surfaces,
- (b) any process by which a relevant substance is extracted or otherwise separated (whether as part of the process of winning it from any land or otherwise) from any aggregate,
- (c) any process for the production of lime or cement from limestone (which for the purposes of this paragraph includes chalk and dolomite) or from limestone and anything else,
- (d) in the case of aggregate consisting of shale, any process consisting of a use of the shale that—
  - (i) is not a use of it as material or support in the construction or improvement of any structure, and
  - (ii) is not mixing it with anything as part of the process of producing mortar, concrete, tarmacadam, coated roadstone or any similar construction material.

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- (3) In subsection (2)(b), “relevant substance” means any of the following—

- (a) anhydrite,
- (b) ball clay,
- (c) barytes,

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- (d) china clay,
- (e) feldspar,
- (f) fireclay,
- (g) fluorspar,
- 5 (h) fuller's earth,
- (i) gems and semi-precious stones,
- (j) gypsum,
- (k) any metal or the ore of any metal,
- (l) muscovite,
- 10 (m) perlite,
- (n) potash,
- (o) pumice,
- (p) rock phosphates,
- (q) sodium chloride,
- 15 (r) talc,
- (s) vermiculite.

- (4) The Scottish Ministers may by regulations add a substance to, or remove a substance from, the list in subsection (3).

*Taxable and exempt aggregate*

**5 Taxable aggregate**

- (1) Tax is to be charged only on taxable aggregate.
- (2) In this Part a quantity of aggregate is taxable aggregate on any occasion that it is subjected to commercial exploitation, except to the extent that it is exempt aggregate under section 6.

**6 Exempt aggregate**

- (1) A quantity of aggregate is exempt aggregate to the extent that it falls within subsections (2) to (8) of this section.
- (2) Aggregate is exempt under this subsection if it is, or derives from, any aggregate that has already been subjected to a charge to tax.
- 30 (3) Aggregate is exempt under this subsection if it has previously been used for construction purposes (whether before or after the date on which this section comes into force).
- (4) Aggregate is exempt under this subsection if it is aggregate that, on the date on which this section comes into force, is on a site other than—
  - (a) its originating site, or
  - 35 (b) a site that is required to be registered under section 18 under the name of a person who is the operator, or one of the operators, of that originating site.

(5) Aggregate is exempt under this subsection if it consists wholly of aggregate won by being removed from the ground on the site of any structure or any proposed structure, or the site of any infrastructure or any proposed infrastructure relating to transportation or utilities, in the course of excavations lawfully carried out—

- (a) in connection with, and necessary for, the construction, modification, maintenance or improvement of the structure or infrastructure, and
- (b) not for the purpose of extracting that aggregate.

(6) Aggregate is exempt under this subsection if it consists wholly of aggregate won—

- (a) by being removed from the bed of any river, canal or watercourse (whether natural or artificial) or of any channel in or approach to any port or harbour (whether natural or artificial), and
- (b) in the course of the carrying out of any dredging undertaken exclusively for the purpose of creating, restoring, improving or maintaining that river, canal, watercourse, channel or approach.

(7) Aggregate is exempt under this subsection if it consists wholly of the spoil from any process by which—

- (a) coal (including bituminous coal, cannel coal and anthracite),
- (b) lignite,
- (c) slate, or
- (d) a substance listed in section 4(3),

has been separated from other rock after being extracted or won with that other rock.

(8) Aggregate is exempt under this subsection if it consists wholly or mainly of any one or more of the following, or is part of anything consisting wholly or mainly of the following—

- (a) coal (including bituminous coal, cannel coal and anthracite),
- (b) lignite,
- (c) slate,
- (d) the spoil or waste from, or other by-products of—
  - (i) any industrial combustion process, or
  - (ii) the smelting or refining of metal,
- (e) the drill-cuttings resulting from any operations carried out in accordance with a licence granted under the Petroleum Act 1998 or the Petroleum (Production) Act (Northern Ireland) 1964,
- (f) clay, soil or vegetable or other organic matter.

(9) For the purposes of subsection (2), aggregate has already been subjected to a charge to tax if and only if—

- (a) there has been a previous occasion on which a charge to tax on that aggregate has arisen and at least some of the tax previously charged on that aggregate is either—
  - (i) tax in respect of which there is or was no entitlement to a tax credit, or

(ii) tax in respect of which any entitlement to a tax credit is or was an entitlement to a tax credit of an amount less than the amount of the tax charged on it, or

(b) before the date on which this section comes into force, there has been an occasion on which a charge to aggregates levy on that aggregate has arisen under the Finance Act 2001.

(10) An entitlement to tax credit which arises where a quantity of aggregate is used in an industrial or agricultural process specified in regulations by virtue of section 15(6) is to be disregarded for the purposes of paragraph (a) of subsection (9) (and therefore for the purposes of that paragraph no entitlement to a tax credit has arisen).

### *Commercial exploitation of aggregate*

## **7 Commercial exploitation**

(1) In this Part a quantity of aggregate is subjected to exploitation if and only if—

(a) it is removed from a site falling within subsection (2),

(b) it becomes the subject of an agreement to supply it to any person,

(c) it is used for construction purposes, or

(d) it is mixed, otherwise than in permitted circumstances, with any material or substance (other than water).

(2) The sites which fall within this subsection are—

(a) the originating site of the aggregate,

(b) any site which is not the originating site of the aggregate but is registered under the name of a person under whose name the originating site is also registered,

(c) any site not falling within paragraph (a) or (b) to which the quantity of aggregate had been removed for the purpose of having an excepted process applied to it on that site, but at which no such process has been applied to it.

(3) In this Part a quantity of aggregate is subjected to commercial exploitation if and only if its exploitation is carried out in the course or furtherance of a business carried on by a person responsible for subjecting it to exploitation (and for the purposes of this subsection “business” includes any activity of the Scottish Administration, a Minister of the Crown, local authority or charity).

(4) But a quantity of aggregate is not subjected to commercial exploitation if its exploitation—

(a) consists in the removal of aggregate from one registered site to another, where both sites are registered under the name of the same person,

(b) consists in or requires the removal of aggregate to a registered site for the purpose of having an excepted process applied to it on that site,

(c) consists in or requires the removal of aggregate to any site for the purpose of having china clay or ball clay extracted or otherwise separated from it on that site, or

(d) has the result that—

(i) without it being subjected to any process involving it being mixed with any other substance or material (other than water), and

(ii) by virtue of it being used for a purpose connected with winning aggregate or other minerals from that site,

it again becomes part of the land at the site from which it was won.

(5) For the purposes of subsection (1)(b), the time when a quantity of aggregate becomes the subject of an agreement to supply it to any person is—

(a) when the agreement is entered into, or

(b) in a case where the quantity of aggregate is not separately identifiable when the agreement is entered into, the time when it is appropriated to the agreement.

(6) But references in this Part to the supply of a quantity of aggregate do not include references to any supply which is effected, or is to be effected, by the transfer or creation of any interest or right in or over land.

(7) For the purposes of this Part, a quantity of aggregate is mixed with any material or substance in permitted circumstances if—

(a) the material or substance with which it is mixed consists wholly of a quantity of taxable aggregate that has not previously been subjected to commercial exploitation in Scotland, and

(b) the mixing takes place on a site which, in a case where it falls within subsection (2) in relation to any part of the aggregate included in the mixture, falls within subsection (2) in relation to every part of it.

(8) For the purposes of this Part, the commercial exploitation of a quantity of aggregate is taken to occur in Scotland if—

(a) the aggregate is in Scotland at the time when it is subjected to exploitation, or

(b) subsection (9) applies.

(9) This subsection applies where a quantity of aggregate is subjected to exploitation under subsection (1)(a) or (b) as a result of the movement of aggregate to Scotland from a place in the rest of the United Kingdom or from United Kingdom waters.

(10) The Scottish Ministers may by regulations modify this Part so as to make further provision about the circumstances in which the exploitation of a quantity of aggregate is taken to occur in Scotland for the purposes of subsection (8).

(11) Subsection (12) applies where, at the time when any aggregate is won from any site, a person (“P”) is in occupation of that site, or both that site and other land, for the purposes of—

(a) the carrying on of any agricultural business, or

(b) the carrying on of any forestry business, or otherwise for the purposes of forestry.

(12) Where this subsection applies, subsection (4)(d) has effect as if—

(a) (where relevant) the reference to the land at the site from which the aggregate was won included P’s other land, and

- (b) the words “by virtue of it being used for a purpose connected with winning aggregate or other minerals from that site” were omitted.

## **8 Persons liable to pay tax**

- (1) The persons liable to pay the tax charged on a quantity of taxable aggregate are the persons responsible for subjecting it to commercial exploitation.
- (2) For the purposes of subsection (1), the persons responsible are each of the following—
  - (a) in a case of the commercial exploitation of a quantity of aggregate by its removal from its originating site or from a connected site, the operator of that site,
  - (b) in a case of the commercial exploitation of a quantity of aggregate by its removal from a site falling within section 7(2)(c), the operator of the site and (if different) the owner of the aggregate at the time when the removal takes place,
  - (c) in a case of the commercial exploitation of a quantity of aggregate at a time when it is not on its originating site or a connected site—
    - (i) by its becoming the subject of any agreement to supply it, or
    - (ii) by its being used at such a time for construction purposes,the person agreeing to supply it or using it for construction purposes,
  - (d) in a case of the commercial exploitation of a quantity of aggregate at a time when it is on its originating site or a connected site—
    - (i) by its becoming the subject of any agreement to supply it, or
    - (ii) by its being used at such a time for construction purposes,the person mentioned in paragraph (c) and (if different) the operator of that site,
  - (e) in a case of the commercial exploitation of a quantity of aggregate by its being mixed with any material or substance at its originating site or a connected site, the owner of the aggregate at the time when the mixing takes place and (if different) the operator of the site,
  - (f) in a case of the commercial exploitation of a quantity of aggregate by its being mixed with any material or substance at premises that are not comprised in its originating site or a connected site, the owner of the aggregate at the time when the mixing takes place and the occupier of the premises where it takes place.
- (3) A person who is responsible for subjecting a quantity of aggregate to exploitation is not responsible for subjecting it to commercial exploitation unless that takes place in the course or furtherance of a business carried on by that person (and for the purposes of this subsection “business” includes any activity of the Scottish Administration, a Minister of the Crown, local authority or charity).
- (4) In this section “connected site”, in relation to any quantity of aggregate, means any site that falls within section 7(2)(b) in relation to that quantity of aggregate.
- (5) Where—
  - (a) the commercial exploitation of a quantity of aggregate occurs by its becoming the subject of an agreement to supply it, and

- (b) a person (“P”) is one of multiple persons involved in the chain of supply that arises from that original agreement (whether or not the chain of supply involves further agreements between the persons involved),

P is liable to pay the total amount of tax chargeable on the quantity of aggregate as a result of the original agreement, unless P has acquired the quantity of aggregate from a person who, at the time of P’s acquisition of the aggregate, is registered.

- (6) Where by virtue of this section more than one person is charged with the tax, their liabilities under this Part as persons charged with the tax are joint and several.

### *Sites and site operators*

## **9 Originating sites**

- (1) In this Part references to the originating site of any aggregate are references—
- (a) in the case of aggregate which has been won from the seabed of the Scottish marine area, to the site where it is first landed after being won,
  - (b) in the case of aggregate which results from the application of an excepted process to any aggregate, to the site where that process was applied,
  - (c) in any other case, to the site from which the aggregate was won or (as the case may be) from which it was most recently won.
- (2) Where any aggregate—
- (a) is on its originating site on the date on which this section comes into force, and
  - (b) has been mixed before that date with aggregate from a different originating site,
- the originating site of all the aggregate comprised in the mixture is, for the purposes of this Part, the site where the mixture is situated on the date on which this section comes into force.

## **10 Operators of sites**

- (1) For the purposes of this Part, the operators of a site are each of the following—
- (a) the person who occupies the site, and
  - (b) if a person other than the occupier exercises control over aggregate on that site, that other person.
- (2) In subsection (1)(b), the reference to exercising control over aggregate on a site is a reference to doing any of the following—
- (a) winning aggregate from land at that site,
  - (b) carrying out any excepted process at that site,
  - (c) storing aggregate at that site.

## CHAPTER 3

### CALCULATION OF TAX

#### *Amount of tax*

#### **11 Weight of aggregate**

- (1) The Scottish Ministers may make regulations for determining the weight of any aggregate for the purposes of calculating the tax.
- (2) Regulations under subsection (1) may—
- (a) specify rules for determining the weight,
  - (b) authorise rules for determining the weight to be specified by Revenue Scotland in a manner set out in the regulations, or
  - (c) authorise rules for determining the weight to be agreed between the person liable to pay the tax and a person designated by Revenue Scotland.
- (3) Regulations under subsection (1) may, in particular, provide for the rules specified or authorised under the regulations to include rules about—
- (a) the method by which the weight is to be determined,
  - (b) the time by reference to which the weight is to be determined,
  - (c) the discounting of constituent ingredients (such as water).
- (4) Regulations under subsection (1) may include provision that rules specified by virtue of subsection (2)(b)—
- (a) are to have effect only in such cases as may be described in the rules, and
  - (b) are not to have effect in particular cases unless Revenue Scotland is satisfied that such conditions as may be set out in the rules are met in those cases.
- (5) Conditions for which provision is made by virtue of subsection (4)(b) may be framed by reference to such factors as Revenue Scotland considers appropriate (such as the consent, in a particular case, of a person designated by Revenue Scotland).
- (6) Regulations under subsection (1) may include provision that where—
- (a) rules are agreed as mentioned in subsection (2)(c), and
  - (b) Revenue Scotland believes that they should no longer be applied (whether because they do not give an accurate indication of the weight or are not being fully observed or for some other reason),

Revenue Scotland may direct that the agreed rules are no longer to have effect.

#### **12 Rate of tax**

- (1) The amount of tax charged on taxable aggregate is calculated by multiplying the applicable rate of tax by the weight in tonnes of the taxable aggregate.
- (2) The amount of tax charged on a part of a tonne of aggregate is to be the proportionately reduced amount.
- (3) The Scottish Ministers may make regulations specifying the applicable rate (or rates) of tax for the purposes of this section.

### *Repayments*

#### **13 Repayments of overpaid tax**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.
- (2) In section 108 (claim for repayment if order changing tax basis not approved)—
  - (a) in subsection (1), in each place where it occurs, for “order” substitute “instrument”,
  - (b) in subsection (2), in the closing words, for “order” substitute “instrument”,
  - (c) in subsection (3)—
    - (i) in the opening words, for “order”, in each place where it occurs, substitute “instrument”,
    - (ii) in the table, in the heading of column 1, for “orders” substitute “instruments”,
    - (iii) at the end of the table, insert—
 

“Under the AT(S) Act 2024— regulations under section 12(3)”	Section 58(2)(b) of that Act”,
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- (d) in subsection (4), for “order” substitute “instrument”.
- (3) The section title of section 108 becomes “**Claim for repayment if instrument changing tax basis not approved**”.

#### **14 Adjustment of contracts**

- (1) This section applies where—
  - (a) an agreement to supply a quantity of taxable aggregate to any person has been entered into,
  - (b) a payment falls to be made under the agreement relating to the aggregate, and
  - (c) after entering into the agreement there is a change to the tax chargeable in relation to the supply of the aggregate referred to in the agreement.
- (2) The amount of any payment mentioned in subsection (1)(b) is to be adjusted (unless the agreement provides otherwise) so as to secure that the cost of discharging the liability to pay the tax, to the extent that it would otherwise have been borne by the supplier, is borne by the person making the payment.
- (3) The reference in subsection (1)(c) to a change in the tax chargeable is a reference to a change—
  - (a) to or from no tax being chargeable, or
  - (b) in the amount of tax chargeable.

### *Credits*

#### **15 Tax credits**

- (1) The Scottish Ministers may by regulations provide that where—
  - (a) a charge to tax has arisen on any quantity of aggregate, and

(b) specified conditions are fulfilled,

a person liable to pay the tax is to be entitled to credit of such an amount as is determined in accordance with specified rules.

- 5 (2) Regulations under subsection (1) may include provision for determining the amount of credit (including provision for limiting it).
- (3) Regulations under subsection (1) may include provision in relation to cases where any quantity of taxable aggregate is moved outwith Scotland to a place in the rest of the United Kingdom, or to United Kingdom waters, in the form of aggregate.
- 10 (4) Regulations under subsection (1) may include provision in relation to cases where any quantity of taxable aggregate is exported outwith the United Kingdom from a place in Scotland, in the form of aggregate.
- (5) Regulations under subsection (1) may include provision in relation to cases where any quantity of taxable aggregate has an excepted process applied to it.
- 15 (6) Regulations under subsection (1) may include provision in relation to cases where any quantity of taxable aggregate is used in a specified industrial or agricultural process.
- (7) Regulations under subsection (1) may include provision in relation to cases where any quantity of taxable aggregate is disposed of (by dumping or otherwise) in such a manner, not constituting its use for construction purposes, as may be specified.
- (8) Regulations under subsection (1) may include—
- 20 (a) provision in relation to cases where the whole or part of a debt which is due to the person liable to pay the tax is written off in the person's accounts as a bad debt, and
- (b) provision for determining whether, and to what extent, a debt is to be taken to be bad for the purposes of paragraph (a).
- 25 (9) In this section, "specified" means specified in the regulations.

## **16 Tax credits: further provision**

- (1) Regulations under section 15(1) may make provision as to the manner in which a person is to benefit from credit, and may, in particular, make provision—
- 30 (a) that a person is to be entitled to credit by reference to accounting periods,
- (b) that a person is to be entitled to deduct an amount equal to the person's total credit for an accounting period from the total amount of tax due from the person for the period,
- 35 (c) that if no tax is due from a person for an accounting period but the person is entitled to credit for the period, the amount of the credit is to be paid to the person by Revenue Scotland,
- (d) that if the amount of credit to which a person is entitled for an accounting period exceeds the amount of tax due from the person for the period, an amount equal to the excess is to be paid to the person by Revenue Scotland,
- 40 (e) for the whole or part of any credit to be held over to be credited for a subsequent accounting period,

(f) as to the manner in which a person who has ceased to be registrable is to benefit from credit.

(2) Regulations made by virtue of subsection (1)(c) or (d) may provide that where at the end of an accounting period an amount is due to a person who has failed to submit returns for an earlier period as required by this Act, Revenue Scotland may withhold payment of the amount until the person has complied with that requirement.

(3) Regulations made by virtue of subsection (1)(e) may—

(a) provide for credit to be held over either on the person's application or in accordance with directions given by Revenue Scotland from time to time, and

(b) allow directions to be given generally or with regard to particular cases.

(4) Regulations under section 15(1) may provide that—

(a) no benefit is to be conferred in respect of credit except on a claim made in such manner and at such time as may be determined by or under regulations,

(b) payment in respect of credit is to be made subject to such conditions (if any) as Revenue Scotland thinks fit to impose, including conditions as to repayment in specified circumstances,

(c) deduction in respect of credit is to be made subject to such conditions (if any) as Revenue Scotland thinks fit to impose, including conditions as to the payment to Revenue Scotland, in specified circumstances, of an amount representing the whole or part of the amount deducted.

(5) Regulations under section 15(1) may require a claim by a person to be made in a return required by regulations under section 23.

(6) Regulations under section 15(1) may provide for section 107 of the Revenue Scotland and Tax Powers Act 2014 (claim for relief for overpaid tax etc.) to apply, with or without modifications, to a claim under this section by a person who has ceased to be registrable as it applies to a claim under that section.

## CHAPTER 4

### ADMINISTRATION

#### *Registration*

#### **17 Scottish aggregates tax register**

(1) Revenue Scotland must keep a register (to be known as the Scottish aggregates tax register) containing such information as Revenue Scotland considers is required for the purposes of the collection and management of the tax.

(2) The register is to be kept in the form that Revenue Scotland considers appropriate.

(3) Revenue Scotland must make any changes to the register that appear to Revenue Scotland to be required for the purpose of keeping the register up to date.

(4) Revenue Scotland may publish, in the manner it considers appropriate—

(a) information derived from the register, and

(b) information falling within any of the descriptions set out in subsection (5).

(5) The information is—

- (a) the names and trading names (if different) of registered persons,
  - (b) the registration numbers assigned to those persons in the register,
  - (c) the addresses, co-ordinates and boundary plans of any sites or other premises at which those persons carry on business, and the type of material produced at each site or premises,
  - (d) the fact (where it is the case) that the registered person is a body corporate which by virtue of section 29 is treated as a member of a group,
  - (e) where paragraph (d) applies—
    - (i) the names of the other bodies corporate treated under that section as members of the group,
    - (ii) the addresses, co-ordinates and boundary plans of any sites or other premises at which those other bodies carry on business, and the type of material produced at each site or premises,
  - (g) the names of tax representatives against the names of the non-resident taxpayers of whom they are the representatives,
  - (h) the information mentioned in paragraphs (a) to (c) in respect of persons who have notified Revenue Scotland under section 20 of the production of exempt aggregate, and
  - (i) such other information as Revenue Scotland considers appropriate.
- (6) Information may be published in accordance with subsection (4) despite any obligation not to disclose the information that would otherwise apply which is contained in—
- (a) an Act of the Scottish Parliament,
  - (b) an instrument made under an Act of the Scottish Parliament, or
  - (c) any other enactment which, if contained in an Act of the Scottish Parliament, would be within the legislative competence of the Parliament.

## **18 Duty to register for tax**

(1) A person who—

- (a) carries out taxable activities, and
- (b) is not registered,

is liable to be registered.

(2) For the purposes of this section, a person carries out taxable activities if the person is responsible for subjecting a quantity of aggregate to commercial exploitation.

(3) Where—

- (a) a person at any time—
  - (i) forms the intention of carrying out taxable activities, or
  - (ii) carries out taxable activities, and
- (b) the person is not registered,

the person must notify Revenue Scotland at whichever is the earliest time of paragraph (a)(i) or (ii).

- (4) Where a person is liable to be registered by virtue of subsection (1), Revenue Scotland may register the person with effect from the time when the person begins to carry out taxable activities (whether or not the person notifies Revenue Scotland under subsection (3)).
- (5) The Scottish Ministers may by regulations provide for persons carrying out taxable activities to be, to such extent and subject to such conditions or restrictions as may be prescribed in the regulations, either—
  - (a) exempt from the requirement to be registered under this section, or
  - (b) exempt from other requirements imposed by or under this Part on registrable persons.
- (6) Regulations under subsection (5) may, in relation to persons who are exempt from the requirement to be registered under this section, include provision—
  - (a) requiring those persons to keep any records that may be needed to enable those persons to comply with a requirement to notify Revenue Scotland of the person's intention—
    - (i) to carry out taxable activities, or
    - (ii) to cease to carry out taxable activities,
  - (b) requiring those persons to preserve those records until a day specified by the Scottish Ministers in the regulations (and different days may be specified for different purposes under this paragraph),
  - (c) specifying that the records required to be kept and preserved under paragraphs (a) and (b) do, or do not, include records described in the regulations, and
  - (d) specifying supporting documents (including accounts, books, deeds, contracts, vouchers and receipts) that are required to be kept,
  - (e) referring to things specified in a notice published by Revenue Scotland in accordance with the regulations (and not withdrawn by a subsequent notice).
- (7) References in this Part to a registrable person are to a person who—
  - (a) is registered under this section, or
  - (b) is liable to be registered under this section.
- (8) Where any two or more bodies corporate are treated as members of the same group by virtue of section 29 they must be registered together as one person in the name of the representative member.

## **19 Cancellation of registration for tax**

- (1) A person who at any time ceases to have the intention of carrying out taxable activities must notify Revenue Scotland of that fact.
- (2) For the purposes of subsection (1), a person carries out taxable activities if the person is responsible for subjecting a quantity of aggregate to commercial exploitation.
- (3) Where Revenue Scotland is satisfied that a person has ceased to carry out taxable activities it may cancel the person's registration with effect from the earliest practicable

time after the person ceased to carry out taxable activities (whether or not the person notifies Revenue Scotland under subsection (1)).

(4) Where—

- (a) a person notifies Revenue Scotland under subsection (1), or is exempted from the requirement to be registered by virtue of regulations under section 18(5),
- (b) Revenue Scotland is satisfied that the person will not carry out taxable activities,
- (c) Revenue Scotland is satisfied that no tax which the person is liable to pay is unpaid,
- (d) Revenue Scotland is satisfied that no credit to which the person is entitled under regulations made under section 15 is outstanding, and
- (e) subsections (5) and (6) do not apply,

Revenue Scotland must cancel the person's registration with effect from the earliest practicable time after the person ceases to carry out taxable activities.

(5) Where—

- (a) a person notifies Revenue Scotland under subsection (1), and
- (b) Revenue Scotland is satisfied that the person has not carried out, is not carrying out, and will not carry out, taxable activities,

Revenue Scotland must cancel the person's registration with effect from the date of registration.

- (6) Where a registered person becomes exempted from the requirement to be registered by virtue of regulations under section 18(5), Revenue Scotland may cancel the person's registration with effect from the time when the person became so exempted or from such later time as Revenue Scotland considers appropriate.

(7) Where—

- (a) a registered person becomes exempted from the requirement to be registered by virtue of regulations under section 18(5), and
- (b) Revenue Scotland is satisfied that the person has been so exempted at all times since being registered,

Revenue Scotland must cancel the person's registration with effect from the date of registration.

## **20 Duty to notify Revenue Scotland of production of exempt aggregate**

An unregistered person who—

- (a) would be required to be registered for the purposes of the tax but for an exemption by virtue of regulations under section 18(5), or
- (b) has formed the intention of carrying out activities that would be taxable activities but for such an exemption,

must, in such cases or circumstances as may be prescribed in regulations made by the Scottish Ministers, notify Revenue Scotland of that fact.

## **21 Registration by Revenue Scotland**

- (1) Where it appears to Revenue Scotland that any person is operating or using any premises, or intends to operate or use any premises, for any of the purposes listed in subsection (2), it may register those premises, in any entry in the register relating to that person and under that person's name, as a registered site.
- (2) The purposes are—
- (a) winning any aggregate,
  - (b) applying an excepted process to any aggregate,
  - (c) mixing, otherwise than in permitted circumstances (see section 7(7)), any aggregate with any material or substance (other than water),
  - (d) storing any aggregate, or
  - (e) the first landing in Scotland of aggregate won from the seabed of the Scottish marine area or from the seabed of United Kingdom waters.
- (3) Where any premises are registered in accordance with subsection (1) as a registered site, the particulars included in the register must set out, as the boundaries of the site, such boundaries as appear to Revenue Scotland best to secure that avoidance of tax is not facilitated by the registration of any part of any premises that is not used or operated for any of the purposes listed in subsection (2).
- (4) Where any entry in the register at any time specifies that any premises registered under a person's name as a registered site are to be taken to be the originating site of—
- (a) any aggregate resulting from the carrying out of any excepted process there, or
  - (b) any aggregate won or landed there,
- any question for the purposes of this Part as to the boundaries at that time of the originating site of any such aggregate is to be conclusively determined in accordance with that entry.

## **22 Registration: further provision**

The Scottish Ministers may by regulations make provision—

- (a) specifying the period within which a notification by virtue of section 18(3), 19(1) or 20 is to be made,
- (b) specifying the form and content of a notification under any of those sections,
- (c) requiring a person who has made a notification under any of those sections to notify Revenue Scotland—
  - (i) of any information contained in or provided in connection with the notification which has become inaccurate,
  - (ii) of any other change in circumstances,
- (d) requiring the correction of entries in the register.

*Tax returns and record-keeping*

**23 Duty to make returns and pay tax**

- (1) The Scottish Ministers may by regulations provide that a registrable person must—
- (a) account for tax by reference to such periods (“accounting periods”) as may be specified,
  - (b) make returns in relation to such accounting periods,
  - (c) pay tax at such times and in such manner as may be specified.
- (2) Regulations under subsection (1) may include provision—
- (a) for the tax falling in accordance with the regulations to be accounted for by reference to one accounting period to be treated in specified circumstances, and for specified purposes, as tax due for a different period,
  - (b) for the correction of errors made when accounting for the tax by reference to any period,
  - (c) for consequential adjustments required in connection with such errors,
  - (d) for a person, for purposes connected with the making of any such consequential adjustment, to be required to provide to any specified person, or to retain, a document in the specified form containing specified particulars of the matters to which the adjustment relates,
  - (e) enabling Revenue Scotland, in such cases as it considers appropriate, to dispense with or relax a requirement imposed by regulations made by virtue of paragraph (d),
  - (f) for the amount of tax which, in accordance with the regulations, is treated as due for a later period than that in which it should have been accounted for, to be treated as increased by an amount representing interest at the rate applicable under section 220 of the Revenue Scotland and Tax Powers Act 2014 (rates of interest) for such period as may be determined in accordance with the regulations.
- (3) In this section “specified” means specified in the regulations.

**24 Form and content of returns**

- (1) A return under this Part must—
- (a) be in the form specified by Revenue Scotland,
  - (b) contain information specified by Revenue Scotland, and
  - (c) be made in a manner specified by Revenue Scotland.
- (2) Revenue Scotland may specify different forms, information and manners of return for different kinds of return.
- (3) A return is treated as containing any information provided by the person making it for the purpose of completing the return.
- (4) Subsections (1) and (2) are subject to any different provision made in or under this Part.

## **25 Communications from taxpayers to Revenue Scotland**

- (1) Any notice, application or other thing that a person is required or permitted by provision made in or under this Part to give to Revenue Scotland must comply with the requirements set out in subsection (2).
- 5 (2) The requirements are that the thing must—
  - (a) be in the form specified by Revenue Scotland,
  - (b) contain the information specified by Revenue Scotland, and
  - (c) be made in the manner specified by Revenue Scotland.
- (3) Subsections (1) and (2) are subject to any different provision made in or under this Part.

10

### *Non-resident taxpayers*

## **26 Appointment of tax representatives**

- (1) The Scottish Ministers may by regulations make provision for securing that every non-resident taxpayer, for the purposes of paying the tax, appoints a person resident in the United Kingdom to act as the taxpayer's tax representative.
- 15 (2) In this Part a “non-resident taxpayer” means a person who—
  - (a) is or is required to be registered for the purposes of the tax, or would be so required but for an exemption by virtue of regulations under section 18(5), and
  - (b) is not resident in the United Kingdom.
- (3) Regulations under subsection (1) may include provision—
  - 20 (a) requiring notification to be given to Revenue Scotland where a person becomes a non-resident taxpayer,
  - (b) requiring the appointment of tax representatives by non-resident taxpayers,
  - (c) for the appointment of a person as a tax representative to take effect only where the person is approved by Revenue Scotland,
  - 25 (d) requiring a request to be made to Revenue Scotland for such an appointment,
  - (e) authorising Revenue Scotland to give a direction requiring the replacement of a tax representative,
  - (f) authorising Revenue Scotland to give a direction requiring a person specified in the direction to be treated as the appointed tax representative of a non-resident taxpayer so specified,
  - 30 (g) about the circumstances in which a person ceases to be a tax representative and about the withdrawal by Revenue Scotland of its approval of a tax representative,
  - (h) enabling a tax representative to act on behalf of the person for whom the representative is the tax representative through an agent of the representative,
  - 35 (i) for the purposes of any provision made by virtue of paragraphs (a) to (h) regulating the procedure to be followed in any case and imposing requirements as to the information and other particulars to be provided to Revenue Scotland,
  - (j) as to the time at which things done under or for the purposes of the regulations are to take effect.

**27 Effect of appointment of tax representatives**

- (1) The tax representative of a non-resident taxpayer is entitled to act on the non-resident taxpayer's behalf for the purposes of any provision made by or under this Part.
- (2) The tax representative of a non-resident taxpayer must, except to such extent as the Scottish Ministers by regulations provide otherwise, secure the non-resident taxpayer's compliance with any requirements in relation to the tax imposed under—
- (a) this Act or any regulations made under this Act, or
  - (b) the Revenue Scotland and Tax Powers Act 2014 or any orders or regulations made under that Act,
- (including any requirements arising before that person became the non-resident taxpayer's tax representative).
- (3) A person who is or has been the tax representative of a non-resident taxpayer is personally liable—
- (a) in respect of any failure while the person is or was the non-resident taxpayer's tax representative to secure compliance with any requirements arising by or under this Part, and
  - (b) in respect of anything done in the course of, or for purposes connected with, acting on the non-resident taxpayer's behalf, as if the requirements arising by or under this Part were imposed jointly and severally on the tax representative and the non-resident taxpayer.
- (4) A tax representative is not liable by virtue of this section to be registered for the tax.
- (5) A non-resident taxpayer is personally liable in respect of any tax due as a consequence of fraud or error by the taxpayer's tax representative.

**28 Definition of “business premises” to exclude premises of tax representatives**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.
- (2) In section 141 (power to inspect business premises)—
- (a) after subsection (3) insert—  
“(3A) In this Chapter “business premises”—
  - (a) in relation to a person, means premises (or any part of premises) that a designated officer has reason to believe are (or is) used in connection with the carrying on of a business by or on behalf of the person, but
  - (b) in relation to a person liable to pay tax under the AT(S) Act 2024, does not include the premises of any tax representative within the meaning of that Act.
- (3B) Subsection (3A)(b) does not prevent tax representatives, or any category of tax representatives, from being specified under section 142 as involved third parties for the purposes of that section.”,
- (b) in subsection (4), the definition of “business premises” is repealed.

*Special cases*

**29 Groups of companies**

- (1) Where any bodies corporate are treated as members of a group by virtue of this section, for the purposes of this Part—
  - (a) any liability of a member of the group to pay tax is to be taken to be a liability of the representative member,
  - (b) the representative member is to be taken to carry out any taxable activities which a member of the group would carry out (apart from this section) by virtue of section 18(2),
  - (c) all members of the group are jointly and severally liable for any tax due from the representative member.
- (2) Two or more bodies corporate are eligible to be treated as members of a group if the condition mentioned in subsection (3) is fulfilled and—
  - (a) one of them controls each of the others,
  - (b) one person (whether a body corporate or an individual) controls them all, or
  - (c) two or more individuals carrying on a business in partnership control them all.
- (3) The condition is that the prospective representative member has an established place of business in the United Kingdom.
- (4) Two or more bodies corporate eligible to be treated as members of a group may apply to Revenue Scotland to be so treated.
- (5) An application under subsection (4) must set out which of the bodies corporate is to be the representative member.
- (6) Where an application referred to in subsection (4) is made—
  - (a) the bodies corporate are to be treated as a group from the beginning of an accounting period, and
  - (b) the body corporate set out in the application is to be the representative member, unless Revenue Scotland refuses the application.
- (7) Where any bodies corporate are treated as members of a group, an application may be made to Revenue Scotland to the effect that—
  - (a) a further body eligible to be treated as a member of the group is to be included among the bodies treated in that way,
  - (b) a body corporate is to be excluded from the bodies so treated,
  - (c) another member of the group is to be substituted as the representative member, or
  - (d) the bodies corporate are no longer to be treated as members of a group.
- (8) Where an application referred to in subsection (7) is made, Revenue Scotland may—
  - (a) grant the application with effect from such time as Revenue Scotland specifies by written notice to the members of the group, or
  - (b) refuse the application.

(9) Revenue Scotland may refuse an application under subsection (4) or (7) only if it appears to it necessary to do so for the protection of the revenue.

(10) An application under this section with respect to any bodies corporate—

(a) must be made by one of those bodies or by the person controlling them, and

(b) must be made—

(i) not less than 90 days before the date from which it is to take effect, or

(ii) at such later time as Revenue Scotland may allow.

(11) For the purposes of this section and section 31—

(a) a body corporate is to be taken to control another body corporate if—

(i) it may, by virtue of an enactment, control that body's activities, or

(ii) it is that body's holding company within the meaning of section 1159 and schedule 6 of the Companies Act 2006 (meaning of “subsidiary” etc),

(b) an individual is or individuals are to be taken to control a body corporate if the individual or individuals would be that body's holding company within the meaning of the provisions mentioned in paragraph (a)(ii), were the individual or individuals a company.

### **30 Notification of cessation of eligibility for group treatment or of having place of business in UK**

(1) Where—

(a) two or more bodies corporate are treated as members of a group for the purposes of this Part, and

(b) any of those bodies ceases to be eligible to be so treated,

the body corporate which ceases to be so eligible must notify Revenue Scotland immediately of that fact.

(2) A body corporate which is designated as representative member in relation to any other bodies corporate must not cease to have an established place of business in the United Kingdom without first notifying Revenue Scotland of that fact.

### **30A Group treatment: change to application or notification**

A body corporate which has made—

(a) an application under section 29(4) or (7), or

(b) a notification under section 30(1) or (2),

must notify Revenue Scotland immediately if any information contained in or provided in connection with that application or notification becomes inaccurate.

### **31 Group treatment: substitution and termination**

(1) Subsection (2) applies where—

(a) a body corporate ceases as from any time to be treated as a member of a group,

- (b) immediately before that time, that body was the representative member,
- (c) there are two or more other bodies corporate which continue after that time to be treated as members of the group, and
- (d) no application under section 29(7)(c) in respect of any those other members of the group has been granted by Revenue Scotland.

(2) Revenue Scotland must, by notice to whichever of the bodies corporate mentioned in subsection (1)(c) as it thinks fit, substitute that body corporate as the representative member, as from the time mentioned in subsection (1)(a).

(3) Where—

(a) a body corporate is treated as a member of a group as being controlled by any person, and

(b) it appears to Revenue Scotland that it has ceased to be so controlled,

Revenue Scotland must, by notice given to that person, terminate that treatment from such date as may be specified in the notice.

(4) If it appears to Revenue Scotland necessary to do so for the protection of the revenue, it may, by notice given to any body corporate that is treated as a member of a group and to the representative member, terminate that treatment from such time as may be specified in the notice.

(5) The time specified in a notice under subsection (4) must not be a time before the day on which the notice is given to the representative member.

### **32 Partnerships and unincorporated bodies etc.**

(1) The Scottish Ministers may by regulations make provision applying the requirements of this Part to cases where a business is carried on—

(a) in partnership, or

(b) by an unincorporated body.

(2) The registration under this Part of a partnership or an unincorporated body may be in the name of the firm or body concerned.

(3) In determining whether taxable activities are carried out by an unincorporated body, no account is to be taken of any change in its members.

(4) The registration under this Part of a body corporate carrying on a business in several divisions may be in the names of those divisions if—

(a) the body corporate requests it, and

(b) Revenue Scotland considers it appropriate.

### **33 Bankruptcy etc.**

(1) The Scottish Ministers may by regulations, in relation to a person carrying on a business in a manner described in subsection (2), make provision—

(a) requiring the person carrying on the business to inform Revenue Scotland of the fact that the person is carrying on the business and of the event that has led to that person carrying it on,

(b) allowing the person carrying on the business to be treated, for the duration of a period specified in the regulations, as if that person were the other person mentioned in subsection (2),

(c) for securing continuity in the application of this Part where the person carrying on the business is so treated.

(2) The persons are—

(a) a person carrying on the business of another person who has—

(i) died,

(ii) become bankrupt, or

(iii) become incapacitated,

(b) a person carrying on the business of another person whose estate has been sequestrated,

(c) a person carrying on the business of another person which is in liquidation, receivership or administration.

### **34 Transfer of business as a going concern**

(1) The Scottish Ministers may by regulations make provision for securing continuity in the application of this Part in cases where a business carried on by a person is transferred to another person as a going concern.

(2) Regulations under subsection (1) may include provision—

(a) requiring the transferor to inform Revenue Scotland of the transfer,

(b) providing for liabilities and duties under this Part of the transferor to become, to such extent as may be provided in the regulations, liabilities and duties of the transferee,

(c) providing for any right of either of them to repayment or credit in respect of tax to be satisfied by making a repayment or allowing a credit to the other,

(d) providing that no such provision as is mentioned in paragraph (b) or (c) is to have effect in relation to any transferor and transferee unless an application to that effect has been made by them under the regulations.

### *Provision of security*

### **35 Security required by individual direction**

(1) Revenue Scotland may, if it appears to it necessary to do so for the protection of the revenue, issue a direction—

(a) requiring a person liable to pay tax or a tax representative to provide any security that Revenue Scotland considers appropriate,

(b) specifying the amount of security that a person liable to pay tax is required to provide to secure the approval of the appointment of a tax representative (see section 26).

(2) Revenue Scotland—

(a) may attach to a direction under this section any conditions it thinks fit, and

(b) may vary or revoke an earlier direction or the conditions attached to it.

- (3) A person is not required to comply with a direction under this section unless Revenue Scotland has—

(a) served notice of the direction on the person, or

(b) taken all such other steps as appear to Revenue Scotland to be reasonable for bringing the direction to the person's attention.

- (4) If Revenue Scotland issues a direction under subsection (1)(a) to a person liable to pay tax or a tax representative, that person must provide the required security to Revenue Scotland by the date specified by Revenue Scotland.

- (5) If Revenue Scotland issues a direction under subsection (1)(b) to a person liable to pay tax—

(a) in a case where the direction specifies an amount of security that is different to the amount that the person would be required to provide according to a general direction under section 36, the direction under this section prevails, and

(b) in a case where the effect of the direction is that the person must provide security or additional security to ensure that the appointment of a tax representative continues to have effect, that person must provide the security or additional security to Revenue Scotland by the date specified by Revenue Scotland.

- (6) In this Part “security” means security for the payment of any amount of the tax which is or may become due from a person liable to pay the tax (including any penalty or interest that is recoverable as if it were an amount of the tax).

### **36 Security required by general direction**

- (1) Revenue Scotland may, if it appears to it necessary to do so for the protection of the revenue, issue a direction specifying the amount of security, or a method for determining the amount of security, that taxable persons must provide to Revenue Scotland to secure the approval of the appointment of a tax representative (see section 26).

- (2) A direction under this section—

(a) applies generally to persons liable to pay tax,

(b) may specify any conditions for the provision of security that Revenue Scotland thinks fit,

(c) may vary or revoke an earlier direction, and

(d) must be published by Revenue Scotland.

- (3) Subsection (4) applies if—

(a) a person liable to pay tax has appointed a tax representative, and

(b) a direction issued under this section has the effect of requiring the person liable to pay tax to provide security or additional security to ensure that the appointment continues to have effect.

- (4) The person must provide the security or additional security to Revenue Scotland by the date specified by Revenue Scotland.

*Delegation of functions*

**37 Delegation of functions by Revenue Scotland**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.
- (2) In section 4 (delegation of functions by Revenue Scotland)—
  - (a) in subsection (1), after paragraph (b) insert—

“(c) any of its functions relating to Scottish aggregates tax to a person specified in regulations by the Scottish Ministers (a “relevant person”).”,
  - (b) in subsection (2)—
    - (i) for “or to SEPA” substitute “, SEPA or a relevant person”,
    - (ii) for “and SEPA” substitute “, SEPA and a relevant person”,
  - (c) in subsection (8), in each place where the words occur, for “or SEPA” substitute “, SEPA or a relevant person”.
- (3) In section 254 (subordinate legislation), in subsection (3), before paragraph (a) insert—

“(za) section 4(1)(c)”.

**CHAPTER 5**

**PENALTIES**

**38 Failure to make return**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.
- (2) In section 159 (penalty for failure to make returns)—
  - (a) in subsection (1), at the end of the table insert—

“3.	Scottish aggregates tax	Return under regulations made under section 23 of the AT(S) Act 2024.”,
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  - (b) in subsection (6), after “item 2” insert “or 3”.
- (3) In the italic heading before section 164, after “*Scottish landfill tax*” insert “*and Scottish aggregates tax*”.
- (4) In section 164 (Scottish landfill tax: first penalty for failure to make return), in subsection (1), after “item 2” insert “or 3”.
- (5) The section title of section 164 becomes “**Scottish landfill tax and Scottish aggregates tax: first penalty for failure to make return**”.
- (6) The section title of section 165 becomes “**Scottish landfill tax and Scottish aggregates tax: multiple failures to make return**”.
- (7) The section title of section 166 becomes “**Scottish landfill tax and Scottish aggregates tax: 6 month penalty for failure to make return**”.
- (8) In section 167 (Scottish landfill tax: 12 month penalty for failure to make return), in the section title, after “**Scottish landfill tax**” insert “**and Scottish aggregates tax**”.

### 39 Failure to pay tax

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.
- (2) In section 168 (penalty for failure to pay tax)—
  - (a) in subsection (1), at the end of the table insert—

5	“3. Scottish aggregates tax	(a) Amount payable under regulations made under section 23 of the AT(S) Act 2024.	(a), (b), (c), (e) and (g) The date by which the amount must be paid.
10		(b) Additional amount payable as a result of an adjustment under section 66 of this Act.	(d) and (f) The date falling 30 days after the date by which the amount must be paid.”,
15		(c) Additional amount payable as a result of an amendment under section 83 of this Act.	
20		(d) Additional amount payable as a result of an amendment under section 87 of this Act.	
25		(e) Additional amount payable as a result of an amendment under section 93 of this Act.	
30		(f) Amount assessed under section 95 of this Act in the absence of a return.	
		(g) Amount payable as a result of an assessment under section 98 of this Act.	

- (b) in subsection (5), after “item 2” insert “or 3”.
- (3) In the italic heading before section 170, after “*Scottish landfill tax*” insert “*and Scottish aggregates tax*”.
- (4) In section 170 (Scottish landfill tax: first penalty for failure to pay tax), in subsection (1), after “item 2” insert “or 3”.
- (5) The section title of section 170 becomes “**Scottish landfill tax and Scottish aggregates tax: first penalty for failure to pay tax**”.
- (6) The section title of section 171 becomes “**Scottish landfill tax and Scottish aggregates tax: penalties for multiple failures to pay tax**”.
- (7) The section title of section 172 becomes “**Scottish landfill tax and Scottish aggregates tax: 6 month penalty for failure to pay tax**”.
- (8) The section title of section 173 becomes “**Scottish landfill tax and Scottish aggregates tax: 12 month penalty for failure to pay tax**”.

#### **40 Inaccuracies in taxpayer documents**

(1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.

(2) In section 182 (penalty for inaccuracy in taxpayer document)—

(a) in subsection (6), at the end of the table insert—

“3.	Scottish aggregates tax	<p>(a) Return under regulations made under section 23 of the AT(S) Act 2024.</p> <p>(b) Amended return under section 83 of this Act.</p> <p>(c) Claim for repayment under section 106, 107 or 108 of this Act.”</p>
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(b) in subsection (7), for “item 1 or 2” substitute “any item”.

#### **41 Failure to register for tax etc.**

(1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.

(2) In section 209(1) (penalties for failure to register for tax etc.), for paragraph (a) substitute—

“(a) P fails to comply with a requirement imposed by or under any of the following provisions (“a relevant requirement”)—

(i) section 22 or 23 of the LT(S) Act 2014 (registration and information required to keep register up to date),

(ii) section 18 of the AT(S) Act 2024 (duty to register for tax),

(iv) section 22 of the AT(S) Act 2024 (registration: further provision).”

(3) In section 210(4) (amount of penalty for failure to register for tax etc.), after “landfill tax” insert “or Scottish aggregates tax”.

#### **42 Failure to notify production of exempt aggregate**

(1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.

(2) After section 216 insert—

#### **“CHAPTER 5A**

##### **PENALTIES RELATING SOLELY TO SCOTTISH AGGREGATES TAX**

#### **216A Penalty for failure to notify Revenue Scotland of production of exempt aggregate: Scottish aggregates tax**

(1) This section applies to a person who fails to notify Revenue Scotland, under regulations made under section 20 of the AT(S) Act 2024, of the person’s production of exempt aggregate.

(2) The person is liable to a penalty of £1,000.

(3) Section 211 applies to a penalty under this section as it applies to a penalty under section 209.”.

#### **42A Failure to keep records of production of exempt aggregate**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.
- (2) After section 216A (as inserted by section 42(2)) insert—

##### **“216B Failure to keep records of production of exempt aggregate: Scottish aggregates tax**

- (1) This section applies to a person who fails to keep or preserve records or documents as required under regulations made under section 18(5) of the AT(S) Act 2024.
- (2) The person is liable to a penalty of £1,000.”.

#### **44 Failure to request approval of tax representative appointment**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.
- (2) After section 216B (as inserted by section 42A(2)) insert—

##### **“216C Failure to request approval of tax representative appointment: Scottish aggregates tax**

- (1) This section applies to a person who—
  - (a) becomes subject, in accordance with regulations under section 26(1) of the AT(S) Act 2024, to an obligation to request Revenue Scotland’s approval for the appointment of the person’s tax representative, but
  - (b) fails (with or without making the appointment) to make the request as required by the regulations.
- (2) The person is liable to a penalty of £10,000.”.

#### **45 Failure to notify cessation of eligibility for group treatment or of having place of business in UK**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.
- (2) After section 216C (as inserted by section 44(2)) insert—

##### **“216D Failure to notify cessation of eligibility for group treatment or of having place of business in UK: Scottish aggregates tax**

- (1) This section applies to a person who—
  - (a) fails to notify Revenue Scotland, under section 30(1) of the AT(S) Act 2024, that the person has ceased to be eligible to be treated as a member of a group for the purposes of Part 1 of that Act, or
  - (b) fails to notify Revenue Scotland, under section 30(2) of the AT(S) Act 2024, that the person has ceased to have an established place of business in the United Kingdom.
- (2) The person is liable to a penalty of £500.”.

#### **45A Failure to notify change to group treatment application or notification**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.

- (2) After section 216D (as inserted by section 45(2)) insert—

**“216DA Failure to notify change to group treatment application or notification: Scottish aggregates tax**

- (1) This section applies to a person who fails to comply with section 30A of the AT(S) Act 2024.
- (2) The person is liable to a penalty of £250.”.

**46 Failure to provide security**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.
- (2) After section 216D (as inserted by section 45(2)) insert—

**“216E Penalty for failure to provide security: Scottish aggregates tax**

- (1) This section applies to a person who fails to comply with a requirement by Revenue Scotland under section 35 or 36 of the AT(S) Act 2024 to provide security for the payment of Scottish aggregates tax.
- (2) The person is liable to a penalty of £20,000.”.

**47 General provisions for penalties relating to Scottish aggregates tax**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.
- (2) After section 216E (as inserted by section 46(2)) insert—

**“216F Reasonable excuse for failures under Chapter 5A**

- (1) If a person (“P”) satisfies Revenue Scotland or (on appeal) the tribunal that there is a reasonable excuse for a failure to comply with a requirement imposed by or under the AT(S) Act 2024 as described in section 216A(1), 216B(1), 216C(1), 216D(1), 216DA(1) or 216E(1), liability to a penalty does not arise in relation to that failure.
- (2) For the purposes of subsection (1)—
- (a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside P’s control,
- (b) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure, and
- (c) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

**216FA Assessment of penalties under Chapter 5A**

- (1) If a person becomes liable to a penalty under this Chapter, Revenue Scotland must—
- (a) assess the penalty, and
- (b) notify the person.

- (2) A penalty under this Chapter must be paid before the end of the period of 30 days beginning with the day on which the notification of the penalty is issued.
- (3) An assessment of a penalty under this Chapter—
  - (a) is to be treated for enforcement purposes as an assessment to tax, and
  - (b) may be combined with an assessment to tax.
- (4) An assessment of a penalty under this Chapter must be made within the period of 12 months beginning with whichever is the later of—
  - (a) the date on which the person became liable to the penalty, or
  - (b) the date on which Revenue Scotland first became aware of the person's liability to the penalty.

### **216G Power to change penalty provisions in Chapter 5A**

- (1) The Scottish Ministers may by regulations make provision (or further provision) about penalties under this Chapter.
- (2) Provision under subsection (1) includes provision—
  - (a) about the circumstances in which a penalty is payable,
  - (b) about the amounts of penalties,
  - (c) about the procedure for issuing penalties,
  - (d) about appealing penalties,
  - (e) about enforcing penalties.
- (3) Regulations under subsection (1) may not create criminal offences.
- (4) Regulations under subsection (1) may modify any enactment (including this Act).
- (5) Regulations under subsection (1) do not apply to a failure which began before the date on which the regulations come into force.”
- (3) In section 254 (subordinate legislation), in subsection (3), after paragraph (l) insert—
 

“(la) section 216G(1).”

## **CHAPTER 6**

### **REVIEWS AND APPEALS**

#### **48 Reviews and appeals of decisions of Revenue Scotland**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.
- (2) In section 233(1) (appealable decisions), after paragraph (i) insert—
  - “(j) a decision in relation to the extent of any person's entitlement to any tax credit or to a repayment in respect of a tax credit under section 15 of the AT(S) Act 2024, and the extent of any liability of Revenue Scotland to pay interest on any amount,

- (k) a decision in relation to whether or not any person is required to have a tax representative by virtue of any regulations under section 26 of the AT(S) Act 2024,
- (l) a decision in relation to the giving, withdrawal or variation, for the purposes of any regulations under section 26 of the AT(S) Act 2024, of any approval or direction with respect to the person who is to act as another's tax representative,
- (m) a decision in relation to—
- (i) whether a body corporate is to be treated, or is to cease to be treated, as a member of a group under section 29 of the AT(S) Act 2024,
- (ii) the times at which a body corporate is to be so treated, and
- (iii) which body corporate is, in relation to any time, to be the representative member for a group,
- (n) a decision in relation to the requirement of security for the payment of Scottish aggregates tax under section 35 or 36 of the AT(S) Act 2024.”.

## CHAPTER 7

### INTERPRETATION

#### **49 Interpretation of Part 1**

(1) In this Part—

“accounting period” means a period which, in pursuance of any regulations under section 23(1), is an accounting period for the purposes of the tax,

“aggregate” is to be construed in accordance with sections 3 and 4(1),

“agreement” includes any arrangement or understanding (whether or not legally enforceable), and cognate expressions are to be construed accordingly,

“agricultural” means relating to the trade of agriculture, which includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes,

“commercial exploitation” is to be construed in accordance with section 7,

“construction purposes” is to be construed in accordance with subsection (2) of this section,

“excepted process” has the meaning given by section 4(2),

“forestry” includes the cultivation, maintenance and care of trees or woodland of any description,

“gravel” includes gravel comprising or containing pebbles or stones or both,

“member” and “representative member”, in relation to a group, are to be construed in accordance with section 29,

“mixed” includes blended, and cognate expressions are to be construed accordingly,

“non-resident taxpayer” has the meaning given by section 26(2),

“operate” and “operator”, in relation to any site, is to be construed in accordance with section 10,

“originating site” is to be construed in accordance with section 9,

“the register” means the register maintained by Revenue Scotland under section 17,

“registered” means registered in the register maintained by Revenue Scotland under section 17,

“rock” does not include any rock contained in a quantity of aggregate consisting wholly or mainly of gravel or sand,

“Scottish marine area” has the meaning given by section 1 of the Marine (Scotland) Act 2010,

“structure” includes roads and paths, the way on which any railway track is or is to be laid, and road and railway embankments,

“the tax” means Scottish aggregates tax,

“tax credit” means a tax credit for which provision is made by virtue of section 15(1),

“tax representative”, in relation to any person, means the person who, in accordance with any regulations under section 26(1), is for the time being that person’s tax representative for the purposes of the tax,

“taxable aggregate” is to be construed in accordance with section 5(2),

“United Kingdom waters” means—

(a) the territorial sea adjacent to the United Kingdom, except so much of that territorial sea as is to be treated as adjacent to Scotland for the purposes of the Scotland Act 1998 (see section 126(2) of that Act), or

(b) any area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964.

(2) References in this Part to the use of anything for construction purposes are references to either of the following, except in so far as it consists in the application to it of an excepted process, that is to say—

(a) using it as material or support in the construction or improvement of any structure,

(b) mixing it with anything as part of the process of producing mortar, concrete, tarmacadam, coated roadstone or any similar construction material.

(3) References in this Part to winning any aggregate are references to winning it—

(a) by quarrying, dredging, mining or collecting it from any land or area of the seabed, or

(b) by separating it in any other manner from any land or area of the seabed in which it is comprised.

(4) References in this Part, in relation to any accounting period, to tax due from any person for that period are references (subject to any regulations made by virtue of section

23(2)(a)) to the tax for which that person is required, in accordance with regulations under section 23(1), to account by reference to that period.

- (5) For the purposes of this Part a person is resident in the United Kingdom at any time if, at that time—

- (a) that person has an established place of business in the United Kingdom,  
(b) that person has a usual place of residence in the United Kingdom, or  
(c) that person is a firm or unincorporated body which (without being resident in the United Kingdom by virtue of paragraph (a)) has amongst its partners or members at least one individual with a usual place of residence in the United Kingdom.

## **50 Interpretation of the Revenue Scotland and Tax Powers Act 2014**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.  
(2) In section 252 (general interpretation), before the definition of “the LBTT(S) Act 2013” insert—

““the AT(S) Act 2024” means the Aggregates Tax and Devolved Taxes Administration (Scotland) Act 2024.”.

- (3) In schedule 5 (index of defined expressions), before the entry relating to “LBTT(S) Act 2013” insert—

“AT(S) Act 2024	section 252”.
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## **PART 2**

### **DEVOLVED TAXES ADMINISTRATION**

## **51 Minor amendment of section 94 of the Revenue Scotland and Tax Powers Act 2014**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.  
(2) In section 94 (direction to complete enquiry), in subsection (3), for “paragraph” substitute “section”.

## **51A Refusal of repayment claim where other tax not paid**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.  
(2) In schedule 3 (claims for relief from double assessment and for repayment), in paragraph 12, after sub-paragraph (2) insert—

“(3) If a person who has made a claim has failed to pay to Revenue Scotland an amount (whether of tax, penalty or interest) other than the amount which is the subject of the claim, Revenue Scotland need not give effect to the claim to the extent of that failure.”.

## **53 Penalties for failure to pay tax**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.

- (2) In section 168 (penalty for failure to pay tax), in subsection (1), in entry 1 of the table, in column 4—

- (a) before the existing words insert—

“(a) The earlier of—

- (a) the date falling 30 days after the date by which the amount must be paid, or

- (b) if the tax return was not made on or before the filing date, the date falling 30 days after the filing date.”,

- (b) in the existing words “(a),” is repealed.

#### **54 Communications from Revenue Scotland to taxpayers**

- (1) The Revenue Scotland and Tax Powers Act is modified as follows.

- (2) After section 251 insert—

*“Communications from Revenue Scotland to taxpayers*

##### **251A Communications from Revenue Scotland to taxpayers**

- (1) The Scottish Ministers may by regulations make provision about communications from Revenue Scotland to any person.

- (2) Regulations under subsection (1) may in particular include provision about the use of electronic communications.

- (2A) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.

- (3) Regulations under subsection (1) may modify any enactment (including this Act).”.

- (3) In section 254 (subordinate legislation), in subsection (3), after paragraph (p) insert—

“(pa) section 251A(1).”.

#### **55 Use of automation by Revenue Scotland**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.

- (2) After section 251A (as inserted by section 54(2)) insert—

*“Use of automation by Revenue Scotland*

##### **251B Use of automation by Revenue Scotland**

- (1) The Scottish Ministers may by regulations make provision about the use by Revenue Scotland of automation in carrying out functions conferred on Revenue Scotland or a designated officer.

- (1A) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.

- (2) Regulations under subsection (1) may modify any enactment (including this Act).”.
- (3) In section 254 (subordinate legislation), in subsection (3), after paragraph (pa) (as inserted by section 54(3)) insert—
- 5 “(pb) section 251B(1).”.

## **56 Set-off by Revenue Scotland**

- (1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.
- (2) After section 251B (as inserted by section 55(2)) insert—

### *“Set-off by Revenue Scotland*

#### **251C Set-off by Revenue Scotland**

- (1) This section applies where there is both a credit and a debit in relation to a person.
- (2) In this section and section 251CA—
- “credit”, in relation to a person, means—
- 15 (a) a sum that is payable by Revenue Scotland to a person, or
- (b) a relevant sum that may be repaid by Revenue Scotland to a person,
- “debit”, in relation to a person, means a sum that is payable by the person to Revenue Scotland (including under a contract settlement or a settlement agreement).
- 20 (3) For the purposes of paragraph (b) of the definition of “credit” in subsection (2), a “relevant sum” in relation to a person means a sum that was paid in connection with any liability (including any purported or anticipated liability) of that person to make a payment to Revenue Scotland under or by virtue of an enactment or a contract settlement or a settlement agreement.
- 25 (3A) For the purposes of the definition of “debit” in subsection (2), a sum is not to be treated as payable if the sum can be varied or set aside on review or appeal.
- (4) Revenue Scotland may set the credit against the debit (subject to section 251CA and any obligation of Revenue Scotland to set the credit against another sum).
- 30 (5) The obligations of Revenue Scotland and the person concerned are discharged to the extent of any set-off under subsection (4).
- (6) In this section references to sums paid, repaid or payable by or to a person include sums that have been or are to be credited by or to a person.
- (7) This section does not affect any other power of Revenue Scotland to set off amounts.
- 35

#### **251CA No set-off where insolvency procedure has been applied**

- (1) This section applies where—
- (a) an insolvency procedure has been applied to a person, and

- (b) there is a post-insolvency credit in relation to that person.
- (2) Revenue Scotland may not use the power under section 251C to set that post-insolvency credit against a pre-insolvency debit in relation to the person.
- (3) In this section—
- 5 “post-insolvency credit” means a credit that—
- (a) became due after the insolvency procedure was applied to the person, and
- (b) relates to, or to matters occurring at, times after it was so applied,
- “pre-insolvency debit” means a debit that—
- 10 (a) arose before the insolvency procedure was applied to the person, or
- (b) arose after that procedure was so applied but relates to, or to matters occurring at, times before it was so applied.
- (4) Subject to subsection (5), for the purposes of this section an insolvency procedure is to be taken to be applied to a person when—
- 15 (a) a bankruptcy order or winding up order or award of sequestration is made or an administrator is appointed in relation to the person,
- (b) the person is put into administrative receivership,
- (c) if the person is a corporation, the person passes a resolution for voluntary winding up,
- 20 (d) a voluntary arrangement comes into force in relation to the person,
- (e) a deed of arrangement takes effect in relation to the person,
- (f) the person’s estate becomes vested in any other person as the person’s trustee under a trust deed (within the meaning of the Bankruptcy (Scotland) Act 2016), or
- 25 (g) the person becomes subject to any other kind of arrangement analogous to those described in paragraphs (a) to (f), anywhere in the world.
- (5) In this section, references to the application of an insolvency procedure to a person do not include—
- 30 (a) the application of an insolvency procedure to a person at a time when another insolvency procedure applies to the person, or
- (b) the application of an insolvency procedure to a person immediately upon another insolvency procedure ceasing to have effect.
- (6) For the purposes of this section—
- 35 (a) a person is to be treated as being in administrative receivership throughout any continuous period for which there is an administrative receiver of that person (disregarding any temporary vacancy in the office of receiver), and
- (b) the reference in subsection (4)(b) to a person being put into administrative receivership is to be interpreted accordingly.
- 40

(7) In this section—

“administrative receiver” means an administrative receiver within the meaning of section 251 of the Insolvency Act 1986 or Article 5(1) of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),

“administrator” means a person appointed to manage the affairs, business and property of another person under schedule B1 of that Act or schedule B1 of that Order,

“deed of arrangement” means a deed of arrangement registered in accordance with Chapter 1 of Part 8 of the Insolvency (Northern Ireland) Order 1989,

“voluntary arrangement” means a voluntary arrangement approved in accordance with Part 1 or Part 8 of the Insolvency Act 1986 or Part 2 or Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989.”.

## **57 Role of designated officer**

(1) The Revenue Scotland and Tax Powers Act 2014 is modified as follows.

(2) After section 251CA (as inserted by section 56(2)) insert—

*“Continuity of designated officers’ acts*

### **251D Continuity of designated officers’ acts**

Anything (including anything in relation to legal proceedings) begun by or in relation to one designated officer may be continued by or in relation to another.”.

(3) In section 225 (summary warrants)—

(a) in subsection (3)(b), for “the” substitute “a designated”,

(b) in subsection (4)(a)(ii), for “the” in the first place where it appears substitute “a designated”.

## *Land and Buildings Transaction Tax*

## **57A Retrospective effect of amendments made by the 2018 Order**

(1) The following are to be treated as having had effect since 1 April 2015—

(a) the amendments made by article 2 of the 2018 Order,

(b) article 3 of the 2018 Order, as modified by subsection (2).

(2) In article 3 of the 2018 Order, the reference to 30th June 2018 is to be read as a reference to 1 April 2015.

(3) In this section, “the 2018 Order” means the Land and Buildings Transaction Tax (Group Relief Modification) (Scotland) Order 2018 (S.S.I. 2018/222).

## PART 3

### FINAL PROVISIONS

#### **58 Regulations**

- (1) Regulations under the following provisions are subject to the affirmative procedure: sections 4(4), 7(10), 18(5) and 20 and the first regulations under section 12(3).
- (2) The second and subsequent regulations under section 12(3)—
  - (a) must be laid before the Scottish Parliament, and
  - (b) cease to have effect at the expiry of the period of 28 days beginning with the date on which they were made unless, before the expiry of that period, the regulations have been approved by resolution of the Parliament.
- (3) Regulations under the following provisions are subject to the negative procedure: sections 11(1), 15(1), 22, 23(1), 26(1), 27(2), 32(1), 33(1) and 34(1).

#### **59 Ancillary provision**

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act or any provision made under it.
- (2) Regulations under subsection (1) may—
  - (a) modify any enactment (including this Act),
  - (b) make different provision for different purposes.
- (3) Regulations under subsection (1)—
  - (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act,
  - (b) otherwise, are subject to the negative procedure.

#### **60 Crown application**

Nothing in this Act affects His Majesty in His personal capacity.

#### **61 Commencement**

- (1) This section and sections 59, 60 and 62 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under subsection (2) may—
  - (a) include transitional, transitory or saving provision,
  - (b) make different provision for different purposes.

**62      Short title**

The short title of this Act is the Aggregates Tax and Devolved Taxes Administration (Scotland) Act 2024.

# **Aggregates Tax and Devolved Taxes Administration (Scotland) Bill**

[AS PASSED]

An Act of the Scottish Parliament to make provision for a tax on the commercial exploitation of aggregate; and to make further provision about the administration of devolved taxes.

Introduced by: Shona Robison  
On: 14 November 2023  
Bill type: Government Bill

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