



OFFICIAL REPORT
AITHISG OIFIGEIL

Finance and Public Administration Committee

Tuesday 19 March 2024

Session 6



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**FINANCE AND PUBLIC ADMINISTRATION COMMITTEE
11th Meeting 2024, Session 6**

CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

DEPUTY CONVENER

*Michael Marra (North East Scotland) (Lab)

COMMITTEE MEMBERS

Ross Greer (West Scotland) (Green)

*Jamie Halcro Johnston (Highlands and Islands) (Con)

*John Mason (Glasgow Shettleston) (SNP)

*Liz Smith (Mid Scotland and Fife) (Con)

*Michelle Thomson (Falkirk East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Tom Arthur (Minister for Community Wealth and Public Finance)

Robert Souter (Scottish Government)

Jonathan Waite (Scottish Government)

CLERK TO THE COMMITTEE

Joanne McNaughton

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Finance and Public Administration Committee

Tuesday 19 March 2024

[The Convener opened the meeting at 09:00]

Aggregates Tax and Devolved Taxes Administration (Scotland) Bill: Stage 1

The Convener (Kenneth Gibson): Good morning, and welcome to the 11th meeting in 2024 of the Finance and Public Administration Committee. Agenda item 1 is to take evidence from the Minister for Community Wealth and Public Finance on the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill. I welcome the minister and give apologies from Ross Greer, who has to attend another committee meeting.

The minister is joined by Scottish Government officials Jonathan Waite, the bill team leader; Robert Souter, a senior tax policy adviser; and Ninian Christie, a lawyer for the Scottish Government's legal directorate. I welcome you all and invite the minister to make a short opening statement.

The Minister for Community Wealth and Public Finance (Tom Arthur): Good morning, convener, and committee members. As the committee will be aware, the 2014 Smith commission included a recommendation, which was agreed to by all parties, to devolve to the Scottish Parliament the powers that relate to the commercial exploitation of aggregate in Scotland. The Scotland Act 2016 provided for that.

The bill uses those provisions to set out the key elements of a Scottish aggregates tax. In addition, the provisions that are in part 2 are intended to support the efficient and effective collection of all devolved taxes by Revenue Scotland.

The bill's development has been informed by partnership working between the Scottish Government and Revenue Scotland, as well as extensive stakeholder engagement. In addition to a consultation that ran from September to December 2022, the proposals have been informed by an expert advisory group. I thank all the organisations that have supported and continue to support the development of the legislation and the preparations for the operation of the aggregates tax in the future.

Scottish Government officials, along with representatives of Revenue Scotland, have visited a number of quarries, other aggregate producers and businesses that are focused on the production of recycled materials. I have also visited primary and recycled aggregates businesses and have seen at first hand how they are supporting Scotland's economic and net zero priorities.

Overall, the provisions set out a Scottish aggregates tax that will broadly align with the United Kingdom aggregates levy and provide for a responsible and proportionate approach to the transfer of powers. The bill takes into account the views that I have heard through the consultation process and the limited data that is available about the operation of the UK aggregates levy in Scotland.

As members may be aware, His Majesty's Revenue and Customs does not hold any Scotland-specific data on the volume of taxable material that is in Scotland or on the volume of material that moves throughout the UK. We are thus reliant on survey data and estimates that are based on production shares. There are, however, some important areas of distinction in the bill, with specific provisions to address compliance concerns relating to unregistered quarries and Revenue Scotland's ability to take a more tailored approach to tax administration and compliance. In addition, the bill will provide scope for the Scottish Government to take a more distinctive approach to the tax in the future, which will be based on operational experience and an improved evidence base.

The bill is focused on the establishment and operation of the Scottish aggregates tax. As was the case with previous tax legislation, it does not set out a specific tax rate. I appreciate that the committee has a strong interest in what any future tax rate might be. However, the proposed introduction date is two years away, and decisions on any tax rates should be set out as part of the Scottish budget process. We have worked collaboratively to develop the legislation and I want to do the same for the tax rate. I will therefore work closely with stakeholders to inform the setting of the tax rate. Without wishing to pre-empt the process, I will say that stability and continuity will be important considerations as we initially devolve the tax.

The proposals in part 2 of the bill are intended to support the effective and efficient administration of tax by Revenue Scotland. I recognise that there was no formal consultation on part 2 and appreciate the concerns that stakeholders have raised, but the proposals are fully supported by Revenue Scotland and reflect the detailed engagement that has taken place with the tax authority.

I note that the committee recently heard directly from representatives of Revenue Scotland about the benefits of the provisions and how the provisions might be exercised. The proposals include minor changes to create consistency with powers that already apply in Scotland to UK taxes, and measures that will be subject to full consultation prior to any regulations being proposed.

The bill seeks to deliver on cross-party agreement to devolve further tax-raising powers to the Scottish Parliament. It takes account of extensive stakeholder engagement and is intended to support the efficient and effective collection of all devolved taxes by Revenue Scotland. I welcome the committee's scrutiny of the bill and look forward to our deliberations.

The Convener: Thank you for that helpful opening statement. I have scribbled down quite a few things to ask on the basis of your statement; I hope that I can read my writing when I try to ask my questions.

The first thing that I will ask about is the consultation on part 2 of the bill. Why did the Scottish Government not consult on those provisions? That caused some irritation among our witnesses last week from the Law Society of Scotland, the Chartered Institute of Taxation and the Institute of Chartered Accountants in Scotland.

Tom Arthur: I recognise those points. Either the changes are minor or consistent with the way in which UK taxes currently operate in Scotland, or they will be the subject of regulations, and there will be an opportunity for detailed engagement and consultation on any regulations that are enacted. I am conscious of the committee's particular interest in the provision on automation. I also note that the opportunities that we have to introduce primary legislation on tax are infrequent. As such, when an opportunity does arise, it is important that we respond constructively to suggestions from Revenue Scotland. I am conscious that, in raising that point, I have inevitably precipitated questions on a finance bill, which I would be more than happy to respond to should the committee wish to ask about it.

The Convener: I was going to ask you about that at the end, but as you are giving me a nudge and a wink to ask about it now, I suppose that I may as well. Last week's witnesses called for a finance bill, as have Liz Smith and I and other committee members for a number of years, because that would provide an opportunity to make changes across areas for which we have responsibility and, as you know, the Government is working on six new taxes.

Such a system would make it a lot easier to locate where provisions are and would provide a

timetable for people to feed into the process in order to make representations about what can be influenced or included in that year's finance bill. That seems to me and other committee members to be a fairly logical step forward.

Tom Arthur: I am conscious that we discussed that under another agenda item a few weeks ago. Some strong and clear arguments have been deployed in favour of the principle of an annual finance bill. I note that witnesses have made the point that a finance bill would help to make the system more user-friendly by bringing things together and allowing for increased scrutiny through primary legislation as opposed to secondary legislation. A range of strong arguments has been made.

Our position is that we are not opposed in principle, but it would be a significant undertaking for the Parliament. The established budget processes have been developed, to some extent, in partnership with the Parliament through the budget process review work in the previous parliamentary session and by joint agreement with the committee. Any move would represent a fundamental change. I do not state opposition in principle, but we would need to do a lot more work jointly with the Parliament. It is for the committee to determine its remit, but I imagine that it would have a key and central role to play in that work. If we were going to move to that system, it would be a significant change to how things currently operate, depending on the scope of a finance bill.

I have touched on some ideas that stakeholders suggested. To some extent, such an approach would have to be a joint undertaking. I reiterate the point that I made previously. If there is a desire to explore the matter in more detail and to establish what such a process could look like, there is a willingness on my part and that of officials to have those discussions. However, the Government cannot take that forward on its own, because it is quite a significant change. As the committee will appreciate, whether through agreements with Parliament or through standing orders, there are established budget processes, and it is important that Parliament has a key role in what any change would look like.

The Convener: I suppose that, given what you have said, the sooner we start, the better.

Tom Arthur: If there is a willingness in the committee to start engaging in that work, I am more than happy to pick that up.

The Convener: I am sure that there is, and I am sure that colleagues will pick up on that issue. Meanwhile, let us go back to the crazy, wild world of aggregates and the legislation that is before us.

In your opening statement, you said that the levy will broadly align with the UK aggregates levy.

You mentioned that limited data is available on Scottish aggregates, although we were told that about 5.5 million tonnes are shipped south of the border and that only about 16,000 tonnes are shipped north of the border. That is an issue, as it might mean that implementation of the aggregates tax would result in tax that currently comes to Scotland—worth perhaps £10 million a year—being lost to Scotland. Will you comment on that?

We are looking at a bill that will involve set-up costs of more than £4 million, with running costs of about £915,000 a year, according to the financial memorandum. The nudge and wink that you are giving us is that, although it is up to future budgets to set the aggregates tax, it looks as if it is going to be exactly the same—at the pennies—as the levy south of the border at present.

Tom Arthur: To avoid any doubt, I say that I am not pre-empting the budget, and I am certainly not seeking to pre-empt the 2026-27 budget, which, if Parliament agrees to the legislation, is when we would anticipate the tax going live.

The points that I speak to around continuity and certainty are really a reflection of this being a new power and a recognition of the limitations that we have with regard to data. If I were to suggest something to the contrary, questions might be raised about whether that was a responsible and proportionate approach and whether we should wait until we have more data and a greater understanding of the position.

The Convener: Hold on a second. The bill is already a year later than was intended. What efforts have been made to secure data over the past year and before that? I would have thought that that would have been a primary objective before the bill was lodged.

Tom Arthur: Jointly with the UK and Welsh Governments, we have commissioned a survey of production and movements of aggregate for 2023, which should be available in 2025. However, the specific tax data that will come from the tax going live and being administered by Revenue Scotland will give us and Parliament the opportunity to consider and interrogate any propositions around what the rate should be.

I cannot pre-empt what decisions the Government will take in relation to the budget for the year when, subject to Parliament's agreement to the legislation, the tax will go live. However, I assure you that we are conscious that one of the challenges that we will have to address is the building up of the evidence base and the data, which is just a case of time.

We decided on the approach that we have taken to introducing the legislation and the time that we are allowing before we expect the tax to go live in order to provide as much reassurance as possible

and, crucially, as much opportunity as possible for engagement with industry. We want to be absolutely consistent with the approach that is set out in our framework for tax and, importantly, in the new deal for business. We want to have that level of engagement with those who operate in the sector and to give them the opportunity to bring their expertise to bear, so that we can minimise any risk and allow for the smooth and stable transition of the power to the Scottish Parliament. Future Governments will have the opportunity to make different decisions, particularly as more data becomes available—more data will be available the longer the tax is online.

As I said, at this stage, with regard to the bill, the crucial thing is to ensure that we have the appropriate legislative framework for the operation of the tax in order to provide the necessary stability and continuity and a proportionate and safe transfer of powers.

09:15

The Convener: 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 of alternative materials."

We are in a world in which the climate is changing rapidly and the world is moving forward quickly, and we are talking about a fairly modest bill that will not be implemented for a couple of years. What will actually be done to fulfil the ambitions? I am not really seeing anything. I am hearing a lot of talk about stability and continuity, but we are talking about a couple of quid a tonne of tax on rock coming out of the ground. I do not see the incredibly complicated picture that you seem to be portraying, minister—surely it is pretty straightforward.

The Scottish Government is not setting out what it would like to see. I know that you are saying that we cannot pre-empt taxes a couple of years ahead, but the tax has been £2 a tonne for 15 years. Where is the incentive for people to invest in a multimillion-pound recycling plant? We visited a facility that invested £4 million, and there is another facility that invested £2.5 million. Others want to recycle to avoid the 700,000 tonnes that went into landfill last year, if the amount of soil can be reduced.

What is being done to achieve that? It looks as if this is going to be a landfill tax that just mirrors what the UK has done for the past 10 years. Is that likely to be the situation 10 years from now? I know that you cannot predict the future, but the

direction of travel that I am hearing in all this talk of caution and stability is exactly that.

Tom Arthur: The point about wanting stability and confidence is a direct response to what we have been told by industry through engagement. We set out the rationale for the approach of having broad alignment of the tax with what the UK has in place.

You touched on the rate of the UK aggregates levy being the same for the past 15 years. That is one element that contributes a data challenge, because we do not have a history of changes in the levy from which to assess what the response has been and whether there have been changes as a consequence of changes in the rate of the levy. As you highlight, the changes that are coming are relatively modest in scope.

This is just one tool among many. It is an important fiscal lever and the bill will increase the number of fully devolved taxes that we have at our disposal. As we accrue more data, there will be the opportunity to consider how the tax can be used in relation to other devolved taxes. It sits in a much broader policy area, where a range of other regulatory interventions and policy approaches can be taken. In considering what change can be effected via the use of the Scottish aggregates tax, it will be important to consider it not simply in isolation but as providing an opportunity for decisions on the aggregates levy to be taken in the broader context of the range of other powers that are available in, for example, pursuing circular economy objectives.

The key thing that I am keen to stress at this stage in the bill's consideration is that we need to ensure that we take on board the concerns, views and input of those who are involved in the sector and who are most directly impacted—currently by the UK aggregates levy and in the future by the tax.

The Convener: How much does it cost per mile to ship a tonne of aggregates by truck, for example?

Tom Arthur: I cannot speak to the specific cost of doing that by truck. There can be other means of transport, such as by sea and by rail.

The Convener: I appreciate that, so how much does it cost by rail or by ship? If we are talking about the difference between Scotland and England, what is the elasticity of demand? I asked that in a private briefing with officials and I could not get an answer. The bill has been worked on for a couple of years and I thought that you would have a pretty straightforward answer to that. If you put the tax up from £2 to £3, does that mean that you will not sell any aggregate in England? Will there be a 10 per cent reduction? Will it have no

effect whatsoever? Similarly, what will happen if you reduce the tax by £1?

Despite all the talk about moving towards a Scotland where there is more circularity, the financial memorandum makes it look as though, over the next five years, there will be no change whatsoever in the estimated tax take. I appreciate that that might be partly because of the lack of data that you talked about, but it looks as though there is no ambition either to increase or reduce the tax by trying to move people into greater recycling. Of course the industry will sit where it is at the moment, because vested interests always oppose change, do they not?

Tom Arthur: The consideration here is the administration of the tax. The tax rate will, of course, be set as part of the budget, taking into account a broader range of circumstances at that time, not least the prevailing economic climate.

You touched on understanding the impact of the tax on behaviour, which is why I picked up on your point about the rate having been the same for the past 15 years. That creates challenges around data, and there are also the existing challenges with not having—if you will pardon the pun—disaggregated Scottish data and more information on movements. That is why, as I referred to, we have jointly commissioned a survey with the UK and Welsh Governments to reflect the situation as of last year. The data from that will be available in 2025.

I appreciate the frustration about our not having more information available, but that speaks to why we are taking the prudent approach that we are taking with the bill. We recognise that we need a degree of alignment and continuity in the overall structure and administration of the tax—it is what business is familiar with—but we have flexibility on, for example, the setting of rates and other arrangements to enable a more distinctive Scottish approach to be taken in future. That 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.

The Convener: I take the word “prudent” as meaning inertia. A company that is investing millions of pounds in buying or innovating with regard to the latest technology to process and recycle, in the belief that the Scottish Government will move forward to a circular economy, will not see any evidence that that is the case. I am seeing evidence of a bureaucratic change whereby a tax is being devolved without any seeming ambition to make it any different from the tax in the rest of the UK. There will then be a wrestle with the UK over the impact on our block grant and so on and what

that means for Scotland. It seems to me to be completely underwhelming.

The business and regulatory impact assessment refers to introducing

“a replacement tax that retains the fundamental structure of UKAL”—

that is, the UK aggregates levy—

“while being tailored to Scotland’s needs.”

I am just not seeing anything that is tailored to Scotland’s needs. Who undertook that BRIA?

Tom Arthur: The BRIA was prepared by Government officials and was published when the bill was introduced. I come back to the point that the bill reflects the cross-party agreement in the Smith commission and the cross-party support for the Scotland Act 2016. It was agreed that the UK aggregates levy, or the tax on the commercial exploitation of aggregates, should be devolved to the Scottish Parliament. The committee is familiar with the reasons why that provision is one of the last elements of that act to be taken forward.

The key point is that there is flexibility in the bill to take quite a distinctive Scottish approach. As we are almost two years out from when decisions will be taken on that, I cannot state what that approach should be. As I said, we have not even had the stage 1 debate on the bill yet. My key focus is to ensure that there is a clear rationale for the approach that we are taking with regard to administration. That rationale is about ensuring that we have broad consistency and stability at the point of the tax being devolved, while ensuring that we have flexibility to take a distinctive Scottish approach going forward. That approach will reflect the policy objectives of the Government of the day, which I assume will reflect the distinctive aspects of the Scottish economy.

I agree that ambition is crucial. It is necessary, but it is not sufficient. Data and informed policy making are necessary, too. As I have set out, and as the committee has heard from witnesses, the challenge is that we do not have sufficient data on the way in which the UK aggregates levy operates. We have an opportunity to address that. We are, of course—

The Convener: Is HMRC just not telling you? Why do you not have that data? Surely you have asked. It must have some information on that within a margin of 5 or 10 per cent. I would have thought that it is pretty straightforward.

Tom Arthur: We will engage constructively with HMRC. I will invite Jon Waite to comment, but in terms of the engagement that we have had—

The Convener: You have been talking to HMRC for two years, so I do not understand why you do not have that information.

Jonathan Waite (Scottish Government): One of the challenges is with the tax return. At the moment, the tax return at UK level is very limited. For example, people respond on a company basis, so a company that has sites across the UK will submit one tax return. We therefore do not have that disaggregated Scottish information.

The Convener: If I have a company that has a branch in Manchester, one in Belfast and one in Glasgow, I will know what its output, cost base and profit are. I am really struggling to understand the lack of data. We are talking about millions of tonnes of rock. It is not as if people can hide it—well, apparently, they can hide it, because we have found out that loads of quarries are unregistered.

Jonathan Waite: We try to address that through the survey that the minister mentioned. However, with a survey, we cannot compel people to respond—it is optional. We have a partial picture of the flows in Scotland, including where aggregate moves from, primary aggregate sales and quantities of reserves. However, because it is a survey, we have only a partial picture at the moment. When the tax becomes operational, all taxpayers will have to submit tax returns to Revenue Scotland, so we will have a complete and more detailed picture of the aggregates industry in Scotland.

The Convener: You talked about the Smith commission, but the committee has already said that it does not support the assignment of VAT because it would provide no advantage whatsoever to Scotland and trying to establish it would be a bureaucratic mishmash.

It is not just about devolving for the sake of devolving—there have to be some advantages. One advantage could be, as the Scottish Environment Protection Agency suggested,

“the use of secondary, recycled aggregates in Scotland as part of our shift towards a more circular economy”.

However, if you are not doing anything differently, there are no advantages. I note that you are saying that one day, in the far, distant future, the rate might be £2.05 as opposed to the £2.03 that it will be from April. I am sorry for being sarcastic, but the Government’s uber-cautious approach to the issue is underwhelming, to put it mildly.

I will move on—

Tom Arthur: If you do not mind, convener, I will just say that there is a distinction between the rate of tax and the administration. That is the key point. I want to be clear that, when I speak about a cautious and prudent approach, I am talking about what I am dealing with directly and what is in front of me, which is the legislation. I have set out that we will—as I think everyone including the

committee, the Parliament and industry would expect us to—engage closely ahead of the setting of the rate. However, I have to be candid. For the reasons that have been set out, we do not have the full range of data that we will have as the tax beds in. That is the distinction. The tax will be a fully devolved tax that is administered by Revenue Scotland with rates that are determined and legislated for by this Parliament. The committee will appreciate that VAT assignment was not the devolution of a new power; this tax is distinct in that regard.

The approach that we are taking is around the administration of the tax. I recognise the keen interest in what the rate will be, but I do not think that the committee would expect me to set out what the range of other devolved tax rates or income tax rates will be in the next budget, let alone in two years' time. With regard to this particular tax, we will, of course, continue to engage. The position that we set out with regard to what the rate will be will reflect the engagement that we have had, and we will set out a clear rationale at that time.

I do not want my remarks to be misconstrued as suggesting that there is a predetermined course with no change. I want to make it clear that the approach that we will take is, like the approach that we have taken with the bill, one that is informed by close engagement and is consistent with the principles in the framework for tax and the new deal for business.

The Convener: It is just that, with the landfill tax, there has been no change or differential from the UK whatsoever, even in relation to inert waste, for example, where there is perhaps more room for manoeuvre.

I will move on, because I have a couple more questions and colleagues want to come in. You have said that you will take a more distinctive approach to compliance. What do you mean by that?

09:30

Tom Arthur: I will ask Jonathan Waite to talk about what we have done in the legislation. However, I note that, when you took evidence from Revenue Scotland last week, it set out how it will approach the tax. As the administering authority, it will undertake a level of engagement and, indeed, bring a level of attention and focus to the tax. That will be a crucial change and one of the key wins and gains that will result from the devolution of the tax, given that, as has been discussed at the committee, the UK aggregates levy is one of the smaller taxes in the broader context of the suite of UK taxes that are administered by HMRC.

Jonathan Waite: I probably cannot add a huge amount to what Revenue Scotland said last week about the principles of how it will approach compliance from an administration perspective. However, I will highlight an element of the bill that is distinctive from the UK aggregates levy, which is the more tailored approach that will be taken to the compliance of non-registered sites, which I know other witnesses have mentioned. There is a provision in the bill that 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.

The Convener: We talked about data earlier. One of the things that I was astonished by was that, despite the fact that we would think that the 32 local authorities would know exactly what is going on in their areas and would feed that information into the Scottish Government, there seems to be a bizarre lack of knowledge of just how many unregistered quarries there are in Scotland. They are producing who knows how much aggregate, on which the taxpayer is missing out on getting a return. Compliance is important. One of the positive benefits of devolution would be if there was a push to ensure that all those quarries are located and dealt with. Some people say, "Oh, you can just dig up a couple of hundred tonnes from a farmer's backyard and fill in the land later." However, from what we have been told, a lot of those sites are much bigger than that and are major quarries. It is bizarre that the UK Government does not seem to have done more work to implement a levy and trace those sites with HMRC. I hope that the Scottish Government and its agencies will do more about that.

What specifically do you plan to undertake in order to ensure that that situation—in which, arguably, people are effectively tax dodging—is addressed? What Mr Waite said about the supply chain is important, but what is going to be done to catch those who do not comply in the first place?

Tom Arthur: As the committee will appreciate, matters of enforcement and administration are properly for Revenue Scotland, as are issues with compliance. I appreciate that Revenue Scotland has set out the approach that it will take in detail to the committee in advance—

The Convener: I apologise. What part of the bill will help Revenue Scotland to deliver that outcome?

Tom Arthur: Mr Waite touched on a particular point. If the committee has views regarding the need for additional legislative provisions to provide additional support for Revenue Scotland, or if there is anything in the bill that would inhibit Revenue Scotland from carrying out its duties, we would want to be made aware of that. Our position

and our understanding is that what we have provided for will allow Revenue Scotland to discharge its responsibilities as a tax authority, which include compliance issues.

The Convener: I have other questions, but I want to open up the discussion to colleagues round the table, rather than holding the floor. I will bring in John Mason first.

John Mason (Glasgow Shettleston) (SNP): Thank you, convener. When the UK aggregates levy is switched off, we will have to pay HMRC for any costs. What is the logic of that? Why do we have to pay for the setting up of our new tax and the switching off of the UK's old tax?

Tom Arthur: I think that that just reflects the existing arrangements that were in place for the taxes that were devolved previously. We have set out some estimates based on the costs when those taxes came online and what the process entailed. Jonathan, do you have anything to add?

Jonathan Waite: Yes. The costs that we have set out relate to the precedents of other fully devolved taxes under the Scotland Act 2016. We have engaged HMRC on the matter, but it was not able to give us a cost before it had seen the bill and understood what we are proposing. That is why, in the financial memorandum, we could only provide a range, which goes from no costs up to the costs that were applicable for the land and buildings transaction tax. Now that the bill has been introduced, we continue to work with HMRC officials to move the process forward and understand the switch-off costs as quickly as possible.

John Mason: We hope that the cost will not be huge, but I still think that the principle whereby we end up paying for both the new tax and the old levy is unfair. Was that point raised at all during the fiscal framework discussions last summer?

Tom Arthur: I am not aware that that was the case specifically. I would have to go back and check the *Official Report* of the Parliament's deliberations to see what was discussed regarding the landfill tax and the land and buildings transaction tax, and whether that issue was raised then. I apologise, but I cannot give the rationale that was set out historically, which set the precedent that has informed the change that is being made.

John Mason: The convener has asked you extensively about rates and so on. Witnesses have suggested that, whereas our builders in the central belt have a choice of whether to use recycled material or newly quarried material, the islands and more rural areas face a different situation. On an island or somewhere near Inverness, say, there is not the option of using recycled material, which might suggest that we

could have different rates in different parts of Scotland. There might be a higher rate in Glasgow, for instance, where recycled material could be used, but there might be a lower rate in the Western Isles, where that may not be possible. Is that being considered?

Tom Arthur: I will not rehearse the points that I made earlier about the structure that was set out for the aggregates tax at its inception. There is certainly scope for introducing additional rates under the legislation, but we must operate within the parameters set out in the Scotland Act 2016. Any further changes to the aggregates tax or any wider considerations around localising taxes—if that is the member's suggestion—would require detailed consideration, taking into account the considerable risks around the added complexity that could arise.

Robert Souter (Scottish Government): The matter was discussed with the advisory group during the bill's consultation phase. There was a recognition that it would be complex to decide which areas might have more recycled material available. Such areas already pay the existing UK aggregates levy, so that is the status quo position, essentially. The advisory group was keen to stress the complexity of doing something like that.

John Mason: Have there been any discussions with the UK Government about raising the whole-UK rate of £2 a tonne, which has been there for a long time, so that the whole of the UK, including Scotland, would do more recycling?

Tom Arthur: I have not had any direct conversations with the UK Government on that matter, but I am conscious that the issue has been raised at committee, with the suggestion that, with the Scottish aggregates tax going live, there should be direct engagement with the UK Government in such areas.

The broader situation within the UK and the decisions that the UK Government makes will be among the many factors that will inform consideration of rate setting when the Government and Parliament set the rate for the aggregates tax.

John Mason: SEPA has been mentioned, and I understand that it is very much involved with landfill tax. Indeed, I know from my constituency experience that that is the case. However, it appears that SEPA does not have a formal role in relation to the bill. Can you say why that would be, or is it not necessary?

Robert Souter: SEPA does not have quite the same role in regulating the quarrying sector as it does for the landfill sector. It regulates landfills directly, and they have to register with SEPA for a licence. SEPA may have some interaction with quarries to the extent that they produce waste and

have to have various permits, but it is not quite the same role.

The bill provides the power for Revenue Scotland to ask the Scottish Government to allow it to delegate functions to an organisation such as SEPA in the future if the experience of administering the tax determines that that is necessary. If it identifies another body, apart from SEPA, to which it might be useful to delegate powers, it can also do that. However, the roles do not quite correlate.

John Mason: I understand that, although it seems that it might be the same people who are illegally quarrying and illegally taking landfill. Presumably, SEPA could pass that information on even if it is not required of it.

Robert Souter: Yes, absolutely. I understand that Revenue Scotland would still be looking to work and share information with SEPA, the police and local authorities. A range of people might have knowledge of those types of things, which they can share even if they do not have directly delegated powers.

John Mason: Let us move on. The convener made the point that there was no consultation on part 2 of the bill. The committee has previously had evidence—when we looked at AI and other things—that there are risks with automation. For example, individuals might get caught out and make a minor infringement, but the system might send them a huge penalty, which might not happen if there was human intervention or human checks. What are the plans for automation, and can you assure us that there will still be a good level of human oversight?

Tom Arthur: Certainly. That would be subject to regulations, in relation to which there would be full public and stakeholder consultation and an opportunity for parliamentary scrutiny.

If I remember correctly, it might have been Mr Mason who raised the example of there being a penny difference in council tax and an automated reminder notice going out, which seemed somewhat disproportionate. I am conscious of the response that you received from Revenue Scotland with regard to that, which is that it would want to ensure that its processes in relation to automation were proportionate and balanced.

I do not want to pre-empt the regulations or say what work Revenue Scotland, as a non-ministerial office, would want to take forward, but I think that we would be less concerned with areas in which human judgment is required and looking more at automating routine tasks, which would allow staff to be freed up and deployed in other areas.

However, I want to provide you with the reassurance that there would be that full

opportunity for consultation, engagement on the regulations and parliamentary scrutiny.

John Mason: You have said once or twice that there would be consultation before the introduction of any regulations, which is good. However, I do not think that the bill says that there must be consultation.

Tom Arthur: It is certainly a commitment. If the committee would like any additional assurance on the matter, I am happy to consider that.

John Mason: I cannot remember exactly which witness it was, but at least one made the point that they did not see that written down in the bill. However, you have made a strong commitment today, which is helpful.

The Law Society of Scotland talked about further amendments in relation to issues that are not already in the bill. I assume that your officials will have followed that up. Some of it becomes quite technical, but the Law Society had hoped to see amendments in the area of LBTT group relief and Scottish share pledges. I think that the Government said in the past that it would legislate in that area. Did you consider that, and could it be in the bill?

Tom Arthur: It has been brought to our attention and is under consideration at the moment. We will, of course, update the committee in due course, but I am aware of the specific requests and, indeed, the previous commitments that have been made in that area.

John Mason: When you say that it is “under consideration”, does that mean that it could come in at stage 2?

Tom Arthur: Yes.

John Mason: Thank you. I like a nice answer like that.

One or two of the witnesses made the point that there seems to be a lack of awareness of Scottish taxes, which vary quite a lot. Is the Government planning to do more, specifically on aggregates tax but also more generally, to raise awareness of Scottish taxes, including landfill tax and so on?

Tom Arthur: I certainly want to do all that I can to raise awareness of the tax system in Scotland, and I appreciate the exchanges on the issue in the previous evidence session. I recognise that many people will engage with the tax system only when it bites them. The tax system is like many areas of regulation and policy in that, a bit like gravity, we do not really notice it until we have a stumble or, for some reason, we are reminded of it. It is understandable that, for many reasons, people do not have a requirement to engage with it in their day-to-day lives, so it is not a priority for them.

09:45

We have touched previously on broader issues around transparency and the information that is provided. I want to ensure that, as a Parliament and certainly as a Government, we communicate about tax in as clear and transparent a way as possible. I recognise that there is always a balance to be struck. Not providing enough detail and pursuing simplicity can mean that information is not fully understood. Providing too much detail can create complexity and some of the salient points can be lost. Therefore, on that broader question, I am always happy to engage with the committee. We have done various bits of work on social media and audiovisual packages, which have been shared, to highlight how the tax system operates in Scotland.

Revenue Scotland touched on the fact that it will be doing a lot of work around engagement with the sector prior to the tax going live. That reflects what happens routinely in the work of Revenue Scotland. For example, in an earlier evidence session, we touched on changes to LBTT and the work that Revenue Scotland is doing to engage with stakeholders, recognising that that is often quite specialist engagement with those who are actively involved, professionally, in the administration of taxes and the provision of advice on them. Revenue Scotland does an excellent job.

With regard to suggestions about how the Government can more effectively communicate changes around taxes and increase public understanding of the tax landscape across the UK and how it applies in Scotland between devolved, reserved and local matters, that is a conversation that I am always up for having.

Liz Smith (Mid Scotland and Fife) (Con): You will not be surprised to hear that I will come on to the issue of a finance bill in a minute. First, I will follow up the convener's questioning about data. With regard to the current UK levy, why is HMRC unable to tell us how much of that money is apportioned to Scotland? What is the problem there?

Tom Arthur: I cannot speak on behalf of HMRC. I appreciate that Jonathan Waite earlier tried to set out our understanding of what the issue would be for HMRC. We engage but, ultimately, the UK aggregates levy is a UK tax. It is set by the UK Government and administered by HMRC, so how that tax is administered and the requirements on the body that is charged with administering it are not things over which I have any executive competence.

Liz Smith: You mentioned that you have carried out estimates and studies to get an accurate assessment of that figure. I am struggling to understand why HMRC is unable to provide that

information itself. I appreciate that you cannot answer that question, but it is not helpful that we do not have that data, because, if this devolved tax is to work well, we need to understand that.

You itemised the issues of fairness and simplicity, which I completely understand, but the other issue is the income that will be generated as a result. If that income was to be below what is already being taken through the UK levy, that would be an issue. We cannot make that judgment until we know what HMRC is currently doing. Do you accept that that is a bit of an issue?

Tom Arthur: I recognise the challenges that we have with regard to data and what those mean with regard to being able to make assessments and forecasts.

The answers to questions about the revenue that will be raised and how it would compare to the counterfactual position of the UK aggregates levy being maintained UK-wide are dependent on a number of factors such as economic conditions, the block grant adjustment process and decisions taken around the UK aggregates levy, which we are all familiar with through the BGA process. The scenarios will ultimately reflect policy changes and broader economic factors.

I completely accept the point, however, and I have sought to acknowledge from the outset that the limitations that we currently have around data, which can be remedied with this tax coming online, present challenges to our ability to fully assess what the impacts of particular policy choices might be. That, to an extent, underlines the approach that I have set out. If we had a full suite of data and could say exactly what the scenario had been in each of the past X number of years, that would perhaps facilitate a somewhat different conversation. However, we have to operate with where we are at the moment and what we have available. I have set out the work that is being undertaken to address those data gaps.

Liz Smith: The gap, though, does not help us to work out elasticities of demand, as the convener rightly pointed out. That is the issue. As you have rightly said, in 2016, all parties agreed about the devolution of the tax—I am not arguing about that point at all—but I would argue that, to make people feel comfortable, it would be helpful to have more complete data, which would enable us to analyse the likely behavioural change and the elasticities of demand that will follow from it. It is difficult to do that if we do not have information from HMRC in that manner, so that we can compare. I would make that point quite strongly, and it should perhaps be mentioned in your engagement with the UK Government.

I come back to the issue of the finance bill. You are quite right to say that it is not a matter for the Scottish Government to decide on. However, do you think that, when it comes to the next session of Parliament and a likely parliamentary reform of some sort—of course, that depends on the make-up of the Parliament and on the new Presiding Officer—the Government would agree that that issue could constitute part of the reform of the Parliament?

Tom Arthur: You will appreciate that I would not want to speak on behalf of the whole Government on broader issues of parliamentary reform, not least because I recognise the independence of Parliament in those matters. However, with regard to my portfolio responsibilities around devolved taxation and the work that I do in supporting the Deputy First Minister on the budget process, I am happy to explore where there could be consensus. I appreciate that the Parliament might wish to provide a broader context for the consideration of issues of parliamentary reform, and I recognise the work that your predecessor committee in the previous session of Parliament undertook and led on in that area.

As I have said, there are clear arguments for such an approach, but people might want to use other arguments against it. There will be an opportunity to have that discussion. Given the interest that members of the committee and stakeholders have expressed, I would be keen to engage, but I stress and reiterate the point that the approach that we have around the budget process has been arrived at jointly with Parliament. I do not want to risk saying anything that would be contrary to the spirit of that.

Liz Smith: I understand that, minister, and I accept that you cannot speak on behalf of the Government about the issue. You are quite right to say that it is a parliamentary matter in any case.

On the back of the concerns that the committee has heard, through Audit Scotland, about the lack of sufficient transparency when it comes to the public finances, and on the back of our unending difficulties in making the Office for Budget Responsibility and the Scottish Fiscal Commission forecasts come together, the main argument that I can see for a finance bill is that it could provide greater clarity in the way that the convener described, which would make it much easier to see what the tax and spend would be. That is quite important, and it is something that this Parliament is lacking just now. Personally, I am very much in favour of such a bill, and I think that colleagues across the political spectrum are, too. You mentioned that there are arguments against having a finance bill. What do you think they would be?

Tom Arthur: On the arguments against a finance bill—I am not advancing any such arguments on behalf of the Government—I would just reflect on the fact that, in our existing system, tax changes are made through secondary legislation. Occasionally, we will bring forward primary legislation on tax, such as that which we are considering this morning, which will afford opportunities for wider reforms, but I recognise the criticisms of that approach, too. In considering any changes, I would want to ensure that we fully understand the full range of views. However, as I have said, I am sympathetic to the position that has been put forward.

I appreciate that we do not have any direct control over this matter, but—this goes back to a point that I made earlier—our overall ability to scrutinise the public finances in Scotland would be enhanced if the UK Government took a certain approach with regard to its own budget-setting process. However, I am not going to rehearse all the arguments, as we have been through them before.

There might be an opportunity in how Parliament might wish to consider the matter. Yes, this is, first and foremost, about holding the Government to account and scrutinising its position through the Parliament's own processes, but it is also about looking at the wider UK fiscal framework and how the UK Government itself operates. That approach would certainly assist the Government, but it would be of use to the Parliament, too. I appreciate, though, that we have no direct control over that. I would certainly be more than happy to engage with the Parliament in conversations and discussions about issues of fiscal transparency and engagement with regard to what any finance bill or process would look like. If the committee wanted to do a bit of work on the matter, I and my officials would be happy to engage with it.

Liz Smith: That is helpful. There have been growing calls in the Parliament for a finance bill, and, as Mr Mason has rightly highlighted, the public sometimes does not understand to a particularly high degree of transparency what is going on with the public finances. Anything that we can do to improve that process would be welcome, and I have certainly heard colleagues on all sides of the chamber suggest that it would enhance the Parliament.

Perhaps that is a debate for another time, minister. Thank you for your comments.

Michael Marra (North East Scotland) (Lab): In earlier answers to the convener, minister, you were keen to draw the distinction between the rate of tax and its administration. One of the bill's policy intents is to support the Scottish Government's circular economy objectives, but is it not the case

that, in the legislation as set out, the only mechanism for pursuing that is the rate itself?

Tom Arthur: Clearly, the application of the tax will support those objectives. I am thinking of the original intent of the UK aggregates levy, which goes back to, I think, 2002, as well as the UK Government review of it in 2019—it was published, I think, in 2020—which confirmed what policy intent was being realised through the levy. The tax supports that policy position, which is consistent with the intent of and what has been achieved by the UK levy.

The rate can be an element that influences the degree to which or seeks to—*[Interruption.]* The rate itself is clearly a specific component. The point that I am trying to make—and I apologise for the lack of clarity—is that the tax, in and of itself, supports the policy objective. Of course, the degree to which the tax supports it will be a reflection of the rate and the behavioural response to it.

Michael Marra: The objectives are your own, and they relate to the Scottish Government's circular economy objectives, which are broad and far reaching. The frustration around the earlier questioning is that, other than the rate, which is not specified in the bill, we cannot really see how they might be achieved. During the development of the bill, did you consider any other mechanisms that might be introduced to help you pursue those objectives?

10:00

Tom Arthur: We are operating within the parameters of the 2016 act concerning the commercial exploitation of aggregates. I am conscious that questions were raised in the committee previously as to whether there was another point of charge. The fact that we have to operate within the parameters of the legislation creates a limitation, but that is what the consensus was, that is what the agreement was and that is what we have to work with.

As for different approaches, as we have set out—we went into some detail on this earlier—the rationale behind our approach, with a broader alignment with the existing UK aggregates levy, is that it reflects what business is familiar with. It recognises that it has not been a straightforward process to get to the point of the current UK scheme, as I appreciate the committee will understand.

That has been our starting point. Indeed, that is perhaps a better way to put it: the bill represents a starting point, and one on which there has been broad consensus from industry. The bill is not an end point. How the power is used and develops will be for Governments in the future to determine.

Michael Marra: It would seem that one of the significant limitations on the ability to do more recycling is whether there is enough feedstock, given the amount of demolition that is on-going. There are other limitations concerning capital investment, noting the significant amounts of money that companies must spend to buy or build the machinery that makes the recycling happen. Did you consider any possibility of tax credits in the system to support that kind of capital investment?

Tom Arthur: The flexibilities that are afforded to us by the Scotland Act 2016 determine what we can do, to an extent.

Robert, did anything come up on those areas during the deliberations of the advisory group?

Robert Souter: In exploring the key provisions and the exemptions, the advisory group considered whether anything different could be done. There was not a consensus on that, and there was largely satisfaction with the existing arrangements. There was discussion about the possibility of giving credits to recyclers and so on, but, given that people who produce purely recycled aggregate do not pay the tax, a mechanism for that was not really available under the bill. This relates to the circular economy objectives, and there is a consultation on the waste route map, which contains broader sustainable construction measures, but there is not really a mechanism to give credit to recyclers in the bill.

Michael Marra: It is proposed primary legislation. I take the minister's point, in that the bill is reasonably constrained by the terms of the Scotland Act 2016. However, a recycling company has to pay the landfill tax at full rate against the last residual waste that comes through the recycling process. Given that it will have highly processed that material and will have done everything that it could to take as much out of it as possible, could a tax credit system not be applied that would allow people to invest in the kind of capital infrastructure that would help them to make the process more efficient and to increase capacity?

Tom Arthur: You touch on and anticipate a point that I was going to make, which is that, without pre-empting future rates, there are opportunities to consider how the tax would operate in relation to landfill tax and to take a more rounded approach. That reflects the discussion that we had at the committee a few weeks ago on landfill tax, when the convener was raising those questions directly. As I said at that time, we will write back to the committee on some of the broader considerations that inform the landfill tax approach, beyond the long-stated commitment

around parity with the UK to avoid waste tourism and so on.

With the powers contained in the bill coming online, Governments will be afforded the opportunity in the future to consider how the two rates could interact with each other. We would reiterate that careful consideration and consultation with industry are required, but there is a broader opportunity to consider how the two taxes could potentially complement each other in supporting the circular economy objectives.

Michael Marra: That takes me on to section 56, in part 2 of the bill, which is on the power to offset credits and debits. We have received some evidence on that section, which we have touched on briefly today.

The Institute of Chartered Accountants of Scotland and the Law Society of Scotland both have concerns about the lack of safeguards for a situation in which there is a dispute between the taxpayer and Revenue Scotland about whether an amount of tax is outstanding. Revenue Scotland has confirmed in writing and in oral evidence that that power would be used only when there is no dispute regarding the amount payable. However, that approach is not explicitly set out in the bill, so there is still concern from those who are charged with operating the system on behalf of clients. Does the Scottish Government intend to amend the bill at stage 2 to make that explicit?

Tom Arthur: We all recognise that Revenue Scotland is a highly respected body. It is an NMO, and it is appropriate for it to have that range of powers available to it with regard to the administration of the tax. However, I am happy to reflect on any specific considerations that the committee raises ahead of stage 2. We will read the committee's stage 1 report with interest, as I am sure that Revenue Scotland will. For specific concerns and specific asks for reassurance, I will want to engage with Revenue Scotland to understand its position. However, I will reflect on that matter carefully.

Michael Marra: Thank you, minister. Was it a power that Revenue Scotland asked you for?

Tom Arthur: Jonathan Waite can answer that.

Jonathan Waite: Yes. It is a power that Revenue Scotland has highlighted is already available in Scotland in relation to HMRC powers. For taxes that are not devolved, HMRC can use that power already. Revenue Scotland asked for alignment of the powers that are already available to HMRC.

I know from some of the evidence that the committee has taken that there was some uncertainty about HMRC's use of that power. We have been able to follow up with HMRC officials,

who confirmed—and who proposed to meet ICAS to confirm as well—that the set-off power is well established and well used in HMRC, especially for corporate customers. HMRC very much sees the power as being part of the ability to efficiently run a tax administration system, where there is no dispute about offsetting the debits and credits for individual taxpayers.

Michael Marra: My recollection is that that was recognised in the evidence. I would say that the set-off power was well established and reasonable, given the requirement that there is no dispute, which we have already covered.

Revenue Scotland is an organisation that currently runs two taxes and is about to run a third, if Parliament agrees to that. Is it not disproportionate—at this moment in time, in particular—to bring in a fairly wide-ranging power across those areas, given the caveats that I have talked about? We are putting this power in primary legislation. Is there a good reason for that? Should we not be looking at the matter more in the round, as Liz Smith suggested, in terms of a broader issue around tax?

Tom Arthur: I understand the point that you are making, and I am conscious of the issue that has been raised by stakeholders. I want to be clear that voluntary set-off with consent is already happening in Revenue Scotland. The other point to state is that we have identified that the introduction of the aggregates tax will increase the number of taxpayers who are active across multiple devolved taxes.

The power that has been highlighted is one that Revenue Scotland has asked for. It is consistent with powers that are enjoyed by HMRC. Revenue Scotland has already used it with consent, and it would allow for more efficient administration of the tax system.

Michael Marra: It just feels a little bit like it is something on a shopping list—it is about wanting parity with HMRC over what is a very limited number of taxes. That does not feel to me to be very sensible.

As part of that, I will come on to section 55, which is about automation. We received concerns from the Chartered Institute of Taxation, which made a specific comparison to the Horizon scandal. Obviously, that attracted the attention of the committee, and rightly so. Does the minister want to make comments on that area?

Tom Arthur: I am conscious of the committee's broader interest in public service reform. Clearly, automation will be central to that. We all appreciate that automation provides tremendous opportunities but also significant risk. I imagine that we all agree that we want to seize those opportunities in a way that does not expose us to,

or which minimises, the risk that comes with those. Therefore, with regard to this instance, we recognise that, if there is an opportunity for processes to be automated that will improve the efficiency of Revenue Scotland and enable it to free up staff capacity to take on more complex judgment-based activities, that would be a good thing.

Therefore, the questions are how we can achieve that and how we can be assured that proper consideration has been given to achieving that while avoiding the risks. That is why we have set out that this would be a regulation-making power. There would be consultation and stakeholder engagement as part of that and, of course, parliamentary scrutiny. However, I want to reassure the committee that, although the Government recognises the huge opportunities that artificial intelligence provides for more efficient and effective delivery of public services, we also recognise that there are concerns about some of the risks that can attend the adoption of AI. It is important that we fully interrogate those risks in a transparent way and that Parliament is fully involved.

With regard to the regulations that would be brought forward under the provisions in the bill for automation in Revenue Scotland, I can commit to providing a full opportunity for parliamentary scrutiny on top of the public and stakeholder consultation and engagement.

Michael Marra: The committee has taken a bit of an interest in this area, and we have been addressed by different experts about it. I wonder whether it feels a bit like the piecemeal approach that people are warning against and whether it would be better to have an all-governing AI approach strategy around publication of algorithms, the way in which AI will be applied in different areas and how those things are tested so that the Government takes a more proactive overarching approach, which might be done through legislation, in order to govern the operation of public service in this area.

I suppose that I am just asking for reflections, minister. It is not a criticism necessarily.

Tom Arthur: It is an important area to explore. Certainly, the Government has its approaches. However, I am also conscious that non-ministerial offices are directly accountable to Parliament. Although they are part of the Scottish Administration, they have autonomy and independence in how they operate. In the case of Revenue Scotland in particular, we all recognise why that is important.

With regard to how NMOs would seek to adopt automation processes, AI and so on, Parliament has the opportunity to directly scrutinise the work

that those offices undertake. Parliament will scrutinise the legislative framework within which Revenue Scotland will operate. We have responded to the points that have been raised with us by Revenue Scotland. Bringing forward the regulation-making power will allow us to ensure that we do not inhibit Revenue Scotland's ability to adopt AI approaches that would benefit users of the tax system and, indeed, the overall delivery of public services.

I appreciate the point that you make. In this context, because it is a regulation-making power, some of the points that we are starting to touch on relate more to the regulations themselves and interrogating what is brought forward—

Michael Marra: I do not disagree but my issue on that point is that it is less about the specific operation of the regulation as it applies to different tax rates and more about the fact that we can interrogate this only on the level of principle with regard to how these things might be appropriate, where the human checks and balances are in the systems and what would happen if we did not do that comprehensively. However, I am probably ranging off topic.

Michelle Thomson (Falkirk East) (SNP): Good morning. Thank you for joining us. I have a point that picks up on what Liz Smith said earlier about a finance bill. I listened to what you said, minister, about the implications, the complexity and so on. Before I start on my substantive questions, I will make an observation that a finance bill would benefit the Parliament because it would require all the MSPs to talk about and understand the financing. At the moment, I would gently suggest that this committee is viewed with some disdain by some parliamentarians who have no need to worry about where the money is coming from, but I think that we all need to do that. That is my tuppenceworth. I do not necessarily need a response.

10:15

I will move on to my first question. I understand why data is not collected in company returns, because I have completed them, but I think that HMRC seems to have gotten off incredibly lightly. I want to drill down a wee bit on the survey's approach. We know that not all quarries are registered. Therefore, the survey must have interrogated only those quarries that are registered. Can you give me any more data on how many quarries were polled, what the percentage rate of return was and, therefore, what your confidence level is in that return? Some hard numbers from the data would be helpful.

Robert Souter: There are two main sources for that. The Scottish aggregates mineral survey was

last done for 2019 and we are repeating it for 2023. It surveyed almost all the quarry producers in Scotland, which covered approximately 350 to 400 sites. The British Geological Survey, which carried out that survey for us, estimated that around 69 to 70 per cent of total aggregate production was covered. That organisation also produced the minerals yearbook, which is an annual survey, undertaken on a slightly more informal basis, of the production of many minerals, including aggregate, in the UK. That survey estimated that the Scottish share of overall UK production is about 15 per cent. I do not have details on how many people responded to the surveys.

Michelle Thomson: I had not even appreciated that the surveys were done by third parties and that they were not done specifically to gather data. Even within that, there is a range of different variables.

Robert Souter: The first survey was commissioned by the Scottish Government and carried out by BGS on its behalf.

Michelle Thomson: How confident are you in the figure that you have given?

Robert Souter: BGS is an expert in the field and there is probably nobody with a better understanding of the industry. However, because it is a survey, there is a degree of uncertainty.

Michelle Thomson: Can you put a number on that?

Robert Souter: I am afraid that I could not do that.

Michelle Thomson: Roughly, are you very confident, somewhat confident, confident, slightly confident or not confident at all?

Robert Souter: I would suggest that we are confident. I would expect that figure to be close, but we would need more precision from the data that we would get from the tax return.

Michelle Thomson: So, we are not really all that confident at all. Leading on from that, what risk assessment have you taken? The minister alluded earlier to the complex BGA and we all agree that we would not start from here. I am keen to understand whether the Scottish Government is cognisant of the risks up front—that there will be a fundamental mismatch between what you think you will collect and what you are actually collecting. Have you done a proper risk assessment and have you discussed it? I should direct that question to the minister, rather than you, Mr Souter.

Robert Souter: Discussions are on-going with UK officials as to how that uncertainty should be reflected in the baseline for the block grant

adjustment. I would say that there has been no formal risk assessment process, but we are aware of it and we are discussing the issue with the UK Government.

Michelle Thomson: In that respect, it seems staggering, as per the comment from my colleague John Mason, that we are paying for it; in effect, we are being double charged. If I were contracting with a company to provide a service for selling only data, I would not be happy to pay HMRC for what, frankly, looks as though it is a straw in the wind.

Tom Arthur: It is probably better that I respond to that point. I will not rehearse the points that I made earlier, but we are being very clear about the challenges that exist around data. Through the work that we have done in commissioning surveys to harness the existing information that is available to utilise, we have sought to provide as much of an evidence base as possible, but I must be clear with the committee that we will not have the level of data and the sort of evidence base that we would ideally like until such time as the tax is operational and we start getting the returns.

Of course, Revenue Scotland is an efficient and effective organisation and, as that data starts to come online, we will have the abundance of data and evidence that is required to allow more informed decisions to be taken around the role that the aggregates tax can play in achieving broader policy objectives around the circular economy and in the sector itself.

Michelle Thomson: I accept that you are where you are.

Earlier, Jonathan Waite made a comment that intrigued me. I hope that I am being accurate when I say that he said that the bill allows Revenue Scotland to tax anyone in the supply chain if a non-registered site is used. Am I correct in saying that?

Jonathan Waite: Robert, do you want to pick up on that?

Robert Souter: Yes. If there is taxable aggregate that has not been purchased from someone who is registered for aggregates tax, the provision allows the tax to be charged at any point of commercial exploitation.

Michelle Thomson: Where does that appear in the bill, and how can its legal competence be tested?

Robert Souter: It is set out in the definitions of what counts as commercial exploitation. We are not expecting any issues in that regard or any challenges to those definitions. I think that that is clearly dealt with there. The approach is in line with the approach that is taken to taxes such as the landfill tax, where we are trying to minimise

illegal behaviour and ensure that people engaging in illegal behaviour are made to pay on the same basis as registered producers.

Michelle Thomson: I understand why you might do this, but is it wise to proceed without having fleshed out the question of whether there will be any implications of that? If someone is going to be taxed as part of the supply chain, there will surely be a situation in which they might object to that and open a dispute, which is important because, as Michael Marra noted earlier, Revenue Scotland will be able to offset an outstanding amount of tax if there is no dispute. I am interested in the detail of how that is going to work.

Robert Souter: We expect Revenue Scotland to set out detailed guidance for the operation of all aspects of the tax, including that issue, but we also expect that producers will already be purchasing aggregate from a registered supplier, so the ideal position is that there will be no additional burden.

Michelle Thomson: However, we do not know that, because we know that there is a significant percentage of unregistered suppliers. That is another unknown, so I do not know that we can make that assumption.

Jonathan Waite: We are also aware that there is a small cohort of customers, and, focusing on local authorities and construction companies, Revenue Scotland is in the process of taking a targeted approach to make purchasers of aggregate aware of the provisions in the bill and the need to ensure that they purchase their aggregate from a registered taxpayer.

Michelle Thomson: I will ask an open question, to which the convener alluded. In your opinion, minister, what is the point of the bill? Is it really just a tinkering sop, following the Smith commission, that you are obligated to go through with? The areas where we might be able to add substantive value to Scotland's economy seem quite limited at the moment, because of all the areas that we have discussed. What is your opinion? Is it something that just has to be done because it was agreed at the Smith commission—but with no real substantive value?

Tom Arthur: I think that there will be substantive value through the devolution of the aggregates levy and the creation of a Scottish aggregates tax. Having Revenue Scotland as a tax authority, with the rigour and skill that it can bring to the administration of tax—also touching on the compliance issues that we have explored—will be of benefit and value.

I am conscious of how your question was framed. The convener's earlier remarks about ambition perhaps relate to the longer-term trajectory of the tax. How will the rate be used as a

policy tool? I have sought to set out the reasons and the rationale, and I will not repeat that, but the points that you touched on in your previous question, Ms Thomson, on some of the known unknowns regarding the aggregates tax, are not insurmountable problems. They will be remedied through the experience of the tax coming online and the data that is collected through Revenue Scotland.

When it comes to the benefit and gain from the devolution of the tax, we can be clear about its administration, while addressing some of the concerns that have been raised by stakeholders and committee members around compliance. With more data and greater understanding of how the tax operates, and given the make-up of the sector in Scotland, there will be an opportunity for future Governments to take a view as to how the tax can be more effectively used, both in and of itself and in conjunction with the other fiscal and regulatory levers that are at the disposal of the Scottish Government.

I recognise that, in the cash revenue that it would represent, the tax would amount to a very small part of the Scottish budget but, for the reasons that I have set out, I think that there is value in the tax being devolved. I recognise that, if one compares it with the quantum of revenue that are generated through the partial devolution of income tax or the full devolution of LBTT, they are of different orders of magnitude. Nonetheless, for the reasons that I have set out, I think that there is value in the tax being devolved and in the approach that we have taken through partnership, engagement and collaboration with stakeholders. The design of the proposed legislation is consistent with our framework for tax principles and with the new deal for business approach.

Jamie Halcro Johnston (Highlands and Islands) (Con): A lot of the points that I was going to ask about have already been covered by the convener and by Michelle Thomson, but I want to summarise some of the points that you have made, minister, and to discuss some of the evidence that we took last week.

I will start with a bit of a daft-laddie question. Is there any statutory requirement to take the bill through now? I know that it comes under the Smith commission and the Scotland Act 2016, but is there a statutory requirement to pass it now?

Tom Arthur: There is not a statutory requirement, as I would define it. The switching off of the UK aggregates levy requires an order to be made by the UK Government—I will be corrected if I am wrong about that. However, a set of commitments was made as part of the Smith commission and the 2016 act, and as part of the fiscal framework, and I recognise that there is interest in a range of areas across those

commitments. There is not, as we understand it, a set date, if I can put it that way, when the UK aggregates levy would be switched off irrespective of whether we had passed legislation to introduce a Scottish aggregates tax.

Jamie Halcro Johnston: The lack of data, which we all appreciate but do not necessarily lay at anybody's door in particular, has already been pointed out. There are also the costs of setting up the bill, and there is uncertainty over how it will impact on the block grant adjustment. It is likely that the bill will cost money from the Scottish budget. Why take the bill through now, when all those uncertainties are there?

10:30

Tom Arthur: As I touched on in my earlier answer, many of the issues around uncertainty can be addressed with the tax coming into operation and the provision of data that will follow from that process.

I recognise that in any transfer of power there are costs involved. That is reflected in the other devolved taxes and in other areas such as social security. However, it is important to assess the value of the devolution of any power. In the case of a tax power, it is not simply about looking at the set-up costs but about assessing costs over the medium to longer term. That is a fairer approach to take.

I very much recognise the costs involved in the establishment of the tax, and I recognise the two challenges that have been discussed around data. The challenges around data can be remedied with time and with the tax being collected by Revenue Scotland.

We have already identified an opportunity to address, through the legislation, some of the concerns that have been raised around compliance and, should Parliament agree to the bill, there will, of course, be the opportunity to reflect on and review that issue after the legislation has had some time in operation. The additional data that is provided will create a larger evidence base for future Governments to consider in their use of the power.

Jamie Halcro Johnston: A lot of the evidence that we received on compliance—certainly some of it—was anecdotal. Last week, I asked Elaine Lorimer from Revenue Scotland:

“Do you have any estimates of the current cost of non-compliance?”

She replied:

“When you say ‘cost’, do you mean revenue loss?”

I said:

“Yes.”

She said:

“I am sorry. I am not able to provide you with that.”—*[Official Report, Finance and Public Administration Committee, 12 March 2024, c 38.]*

Even Revenue Scotland is not sure about the estimated cost of lack of compliance at the moment. Given the importance that you and Revenue Scotland seem to be assigning to that issue, is it not concerning that there are no real estimates of the costs of non-compliance?

Tom Arthur: I think that the issues around estimates are reflective of the broader challenge that we have with data. The issue around compliance has been highlighted to the committee directly by stakeholders. I simply highlight it as an example of where this power and the devolution of the tax can confer a benefit, which is identified by those who operate in the sector.

Jamie Halcro Johnston: I suppose that the objective for the tax is that revenue from it will reduce, because, if the Scottish Government's broader policy objective is to increase recycling, the amount of tax paid on unrecycled raw products will, you hope, reduce.

Tom Arthur: As the member will appreciate, a number of factors can determine the availability and suitability of secondary and recycled materials. The committee will have heard a great deal of detail about that in its visits and engagement. We recognise the essential role that primary aggregates producers play in the Scottish economy and their essential role in delivering on infrastructure and a range of other projects.

On the revenue that is generated, you will be familiar with the OBR forecasts, and one would want to read into that for Scotland over the forecast period. Our focus, as I touched on earlier, is to ensure that we have legislation that provides for the effective administration of the tax and allows future Governments to take decisions, based on the data that they have available, about what the tax rate should be once the power comes into effect.

With regard to the revenue, a number of factors are involved. Revenue is not simply down to the tax itself and the rate at which it is set; it is down to the level of economic activity, macroeconomic conditions, the interaction of BGAs and so on, which I know the committee appreciates.

Jamie Halcro Johnston: I will pass back to the convener, because he probably has more questions to ask, but I will say that I do not see a huge amount that is advantageous in this legislation unless the rate is changed. I am not suggesting that I would advocate that, but it seems to me that, unless that differential is used, the administrative and other issues are not of great benefit.

The Convener: I will not bombard you with myriad additional questions, but I will ask one more. It is really from ICAS, which followed up a meeting last week with a wee letter. It concerns section 2, which I did not touch on because I knew that other colleagues were likely to do so, and states that, although we want to see the payment of taxes that are due, for those who fall foul of that requirement, there appears to be

“no official objection/complaints/appeals process”

in the bill,

“which seems to be inequitable.”

Will there be any change at stage 2 to alter that?

Tom Arthur: I am sorry, convener, but is this with regard to interaction with Revenue Scotland?

The Convener: It is to do with section 130 of the Finance Act 2008, which has to do with debt management and is what HMRC uses. Basically, it is about the offsetting of debts and where that applies.

Tom Arthur: I would be happy to consider any specific views that the committee has. The operation of Revenue Scotland is governed by existing legislation that is quite detailed and complex, with the guidance and approach that Revenue Scotland sets out. I am more than happy to consider the committee’s specific concerns, if it has any, about the way in which any of the sections are drafted in part 2 of the bill, if it is a matter that the committee will raise in its stage 1 report. I know that that point was touched on earlier. I will then discuss those concerns with Revenue Scotland.

We want to ensure that we have legislation that allows Revenue Scotland to continue to operate to the effective and high standards at which it does operate. However, I appreciate that stakeholders and the committee might raise concerns and want statutory provisions, backstops, rights and so on to be set out clearly in legislation. As I said, for specific concerns on that point, I would be more than happy to engage with Revenue Scotland and report back to the committee.

The Convener: We appreciate that. Do you want to make any further points before we wind up the session, minister?

Tom Arthur: I only want to thank the committee for the opportunity to speak this morning and for all your engagement in the matter. I look forward to further discussions as the bill goes forward.

The Convener: Thank you very much for that and thank you to your officials for their contributions today.

That concludes the public part of today’s meeting. The next item, which will be discussed in

private, is consideration of our work programme. I call a five-minute break to allow the official report and our witnesses to depart.

10:37

Meeting continued in private until 11:05.

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