

Finance and Public Administration Committee

10th Meeting 2024, (Session 6), Tuesday 12
March 2024

Aggregates Tax and Devolved Taxes Administration (Scotland) Bill

Purpose

1. The Committee is invited to take evidence on the [Aggregates Tax and Devolved Taxes Administration \(Scotland\) Bill](#) from—
 - Eric Brown, Scottish Technical Committee, Chartered Institute of Taxation (CIOT),
 - Justine Riccomini, Head of Tax (Employment and Devolved Taxes), Institute of Chartered Accountants of Scotland (ICAS), and
 - Isobel d’Inverno, Tax Law Sub-Committee Convener, Law Society of Scotland;and then from the following Revenue Scotland representatives:
 - Elaine Lorimer, Chief Executive,
 - John McVey, Programme Manager, and
 - James Lindsay, SAT Tax Design Project Manager.
2. This paper provides background information on the Bill and a summary of the evidence received so far. SPICe has produced a separate [briefing on the Bill](#).

Background

3. The Bill was introduced by the Deputy First Minister and Cabinet Secretary for Finance on 14 November 2023 and makes provision for a Scottish Aggregates Tax (“SAT”), a tax on the commercial exploitation of primary aggregates, to be administered by Revenue Scotland. The Bill also makes a number of amendments to the Revenue Scotland and Tax Powers Act 2014 (RSTPA) in relation to the administration of devolved taxes.
4. As explained in the [policy memorandum](#), the Bill was introduced primarily as a consequence of measures enacted in the Scotland Act 2016, which enabled the Scottish Parliament to legislate for a tax to replace the UK Aggregates Levy (UKAL) in Scotland. The Bill proposes that the SAT will be collected and managed by Revenue Scotland, as the tax authority responsible for the administration of devolved taxes in Scotland.

Outline of Bill provisions

5. Part 1 of the Bill establishes the new SAT and contains the following provisions:

Chapter 1 – The tax: defines the tax and gives responsibility to Revenue Scotland to administer and collect the tax;

Chapter 2 – Key concepts: defines the fundamental 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;

Chapter 3 – Calculation of tax: sets out how the amount of tax is to be calculated and gives a power to the Scottish Ministers to set the rate of tax;

Chapter 4 – Administration: contains various provisions on tax administration, including regarding registration, tax returns, and special cases;

Chapter 5 – Penalties: imposes penalties in relation to the tax, for instance for failure to make a return, failure to pay tax, and failure to register for tax;

Chapter 6 – Reviews and appeals: makes provisions about reviews and appeals of decisions by Revenue Scotland in relation to the tax; and

Chapter 7 – Interpretation: defines the key terms used in Part 1.

6. Part 2 of the Bill contains six substantive provisions, and one minor correction, making separate amendments to the RSTPA 2014, as follows:

- a power for Revenue Scotland to refuse a repayment claim for tax where the claimant has failed to pay other devolved tax due;
- a provision clarifying the penalty in the 2014 Act for failure to pay LBTT;
- a provision clarifying the legal continuity of acts by different designated officers of Revenue Scotland, and clarifying how summary warrants for the recovery of unpaid amounts of tax are to be executed;
- a power for the Scottish Ministers to make regulations on the use of communications from Revenue Scotland to taxpayers, including provision about the use of electronic communications;
- a power for the Scottish Ministers to make regulations on the use of automation by Revenue Scotland;
- a power for Revenue Scotland to off-set a taxpayer debit against a credit;
- a minor amendment to section 94, substituting the word “section” for “paragraph”.

7. The policy memorandum explains that the amendments in Part 2 will relate to Land and Buildings Transaction Tax (LBTT) and Scottish Landfill Tax (SLT) in

addition to SAT and are intended “to support the efficient and effective collection of all devolved taxes by Revenue Scotland”.

8. The memorandum further notes that the setting of the SAT rate, as well as detailed provisions for the administration of the tax, including the claiming of tax credits, are to be set out in subordinate legislation.

Policy aims

9. Commercial exploitation of primary aggregates¹ (mainly crushed rock, gravel and sand) has been subject to UKAL since its introduction in April 2002. Currently, commercial exploitation is triggered when the aggregate is removed from its originating site, part of a supply agreement, used for construction purposes or mixed with another substance other than water. The definitions of commercial exploitation used in the Bill for the SAT align with those provided for in the UKAL.
10. The policy memorandum states that the proposed SAT retains the fundamental structure of UKAL, which, “offers a degree of continuity for taxpayers [...] while also ensuring that the devolved tax can evolve over time to support Scottish Government circular economy objectives”. It highlights general support for the continuity of the existing definitions of aggregate, taxable aggregate, commercial exploitation and exempt aggregate, given:
 - “the definitions had developed over a long period of time with extensive engagement between the UK Government and stakeholders,
 - they are widely understood by the industry, and
 - they had been considered and validated through litigation, including by the European courts”.
11. The Bill provides that SAT can be charged on taxable aggregate at any point of commercial exploitation, while aggregate imported to Scotland from outside the UK will be taxable at the first point of commercial exploitation to occur after the aggregate arrives in Scotland, an approach consistent with current arrangements for the UKAL.
12. In relation to cross-border movement of aggregates within the UK, “the UK Government have stated that movements of aggregate from Scotland would become subject to UKAL on the same basis as imports”, while “the Scottish Government intends that aggregate moved to Scotland from the rest of the UK should be subject to SAT”. The policy memorandum explains that “commercial exploitation of aggregate moved to Scotland from the rest of the UK will be taken to occur in Scotland. As a result, some aggregate producers based in the rest of

¹ The Policy Memorandum explains that primary aggregates, otherwise known as virgin aggregates, are produced from naturally occurring mineral deposits used for the first time. Secondary aggregates refer to the by-products of quarrying and mining operations or material arising as an unavoidable consequence of construction works, as well as manufactured aggregates obtained as a by-product of other industrial processes. Recycled aggregates are those arising from the processing of inorganic material previously used in construction.

the UK may have to register for SAT, but only where they are responsible for commercially exploiting aggregate moving to Scotland”.

13. According to the policy memorandum, aggregates are extracted and sourced across Scotland, with operating quarries found in nearly all 32 local authority areas. The memorandum states that the design and delivery of the SAT is built on the foundation of the Scottish Government’s Framework for Tax 2021 and its introduction 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.

Scottish Government consultation

14. The Scottish Government announced its intention to introduce a Scottish Aggregates Tax in 2021. Devolution of the tax had previously been delayed due to a court case against UKAL on state aid grounds which resulted in the European Commission finding the UKAL was lawful, apart for one exemption for shale (which was subsequently removed in 2015). The [UK Government then reviewed the levy](#). Prior to the commencement of the UKAL review, the Scottish Government commissioned its own [research into potential options for a SAT](#), with conclusions published in August 2020.

15. A [public consultation on proposals for the SAT](#) was held from 26 September to 5 December 2022 and received 24 responses. The consultation covered the context for a devolved Aggregates Tax, the scope of the tax, exemptions and reliefs, tax rates, a sustainability fund, and several tax administration and compliance questions. The policy memorandum notes that this was accompanied by a programme of stakeholder engagement, including meetings with aggregates industry representatives, COSLA and the Scottish Environment Protection Agency and quarry site visits.

16. An [analysis report](#) on the responses to the public consultation was published by the Scottish Government on 15 November 2023. According to that report, respondents, particularly those representing industry interests, expressed strong support for the tax to align closely with UKAL and retain current definitions, exemptions and reliefs. Some respondents, however, argued that the Scottish Government should introduce a distinctive tax with a broader scope, or could express the same scope more clearly in legislation. While the report notes broad agreement on the circular economy goals associated with the introduction of the SAT, the consultation responses highlight “complexities associated with creating two tax jurisdictions where there was previously one, including the treatment of cross-border movements of aggregate and the importance of avoiding double taxation”.

17. Following the consultation, an expert advisory group was established in January 2023. The group has met on five occasions and discussed the aggregates sector

in Scotland and the process to develop a SAT Bill, potential definitions of “aggregate” and “commercial exploitation”, exemptions and reliefs, the tax treatments of imports and exports of aggregates, rate setting, the potential to establish a sustainability fund linked to SAT and administration of the tax by Revenue Scotland.

18. In relation to proposals set out in Part 2 of the Bill, the policy memorandum notes that these “reflect detailed discussions with Revenue Scotland”, however, it further states that “no formal consultation with other tax stakeholders has been undertaken on these prior to their inclusion in the Bill”. The Scottish Government commits to future consultation on the provisions relating to automation and communications from Revenue Scotland to taxpayers prior to bringing forward regulations.
19. According to the policy memorandum, the provisions in the Bill are “not expected [to] have any impact on equal opportunities or fairness”, do not directly raise any relevant human rights concerns and are not expected to have an adverse impact on island communities. Full Equalities Impact Assessment, Fairer Scotland Duty Assessment, Island Communities Impact Assessment and Strategic Environmental Assessment were therefore not deemed necessary for this Bill.
20. A [Business and Regulatory Impact Assessment](#) (BRIA) for the Bill was published on 15 November. The BRIA considered three possible options in relation to establishing a replacement for the UKAL in Scotland:
 1. do not replace UKAL once it is disapplied in Scotland,
 2. introduce a replacement tax that retains the fundamental structure of UKAL while being tailored to Scotland’s needs, or
 3. provide for a replacement tax that takes a fundamentally different approach to the existing UKAL, redefining key concepts and introducing a different system for the administration of SAT.
21. The BRIA recommended the adoption of option 2, “on the basis that it will reduce the uncertainty for current and future taxpayers and their customers and make the transition between taxes easier for the businesses affected”. It further recommended the inclusion of the measures in Part 2 of the Bill due primarily to “the relative infrequency with which primary legislation on tax matters is brought forward for consideration by the Scottish Parliament” and “the views of Revenue Scotland on the benefits that the provisions could bring”.

Financial implications of the Bill

22. The [Financial Memorandum](#) (FM) assesses the overall costs of the Bill relating to the set-up and operation of SAT as a whole, rather than individual provisions. Calculations are based on the assumption that the tax rate set for the SAT is the same as that under the UKAL, currently charged at £2.00 per tonne, although this rate is expected to increase to £2.03 per tonne from April 2024.

23. Costs are expected to be incurred primarily by Revenue Scotland and, to a lesser extent, by the Scottish Fiscal Commission (SFC) and the Scottish Courts and Tribunals Service (SCTS). A summary of these cost estimates is available on pages 13-14 of the FM, showing a total of £3,385,000 - £4,320,000 to be incurred by the Scottish Administration (including Revenue Scotland and SFC) during the first three years (2024-25 to 2026-27) and approximately £26,000 to be incurred by the SCTS over the same period. The FM also includes a commitment from the Scottish Government that any additional costs incurred by Revenue Scotland to deliver the SAT will be met. No cost estimates are provided for provisions in Part 2 of the Bill, with the FM stating that “the measures would be broadly neutral in terms of Revenue Scotland’s costs of operation, relative to the counterfactual where they are not introduced”.
24. In relation to the impact of the SAT on the Scottish budget, the FM notes that a Scotland-specific breakdown of UKAL revenues is not currently available from HMRC. The SFC produced an illustrative forecast of Scotland’s share of the UKAL in May 2023, set out in Table 1 of the FM (page 5). According to SFC’s forecast, the estimated Scottish share of UKAL Revenue is expected to amount to £60 million in 2023-24, £60 million in 2024-25, raising to £61 million in 2025-26. The illustrative forecast, however, is based on limited data and a full forecast is expected in 2024.
25. Under the terms of the Fiscal Framework, the Scottish Government’s budget will be reduced once the tax is introduced to reflect the fact that the Scottish Government will retain receipts from the SAT. The FM does not discuss the Block Grant Adjustment for the SAT, noting this is yet to be agreed by the Scottish and UK governments.
26. The FM notes that the Scottish Government will need to reimburse the UK Government for any net additional costs incurred in ‘switching off’ the UKAL in Scotland. HMRC has confirmed that it expects there will be some additional costs for switching off the UKAL and that it will seek reimbursement from the Scottish Government for these costs, however, an estimate of these costs is not yet available.
27. The Presiding Officer wrote to the Cabinet Secretary on 16 November confirming that a financial resolution is required in respect of the Bill.

Written submissions

28. The Committee issued a call for views on the Bill (Annexe A) which ran for nine weeks, from 11 December 2023 to 9 February 2024 and received nine responses, which have been published on [Citizen Space](#).
29. The submissions received reflect broad agreement with Part 1 of the Bill and the general principle that a tax be levied on the commercial exploitation of primary aggregates. Most respondents agree that the proposed SAT aligns with the Scottish Government’s Framework for Tax 2021, and the principles and strategic objectives that underpin the Scottish Approach to Taxation.

30. The definitions and exemptions used in the Bill, as well as the penalties and appeals processes set out in relation to the SAT and, more generally, consistency with the UK treatment of the tax, are generally welcome. The Mineral Products Association (MPA) Scotland notes that with “many companies that operate in both tax jurisdictions, [...] differences in definitions would introduce complexity and potentially perverse incentives and outcomes for no discernible benefit.” Resource Management Association Scotland, however, raises an issue regarding the definition, arguing that the phrase “extracted for use as bulk fill” is not inclusive enough and potentially misses many aggregate products and uses. In terms of exemptions, COSLA calls for exemptions to the SAT where there is a clear public benefit. On a wider point regarding the aims of the tax, MPA Scotland notes that “the tax has no effect on either the availability of recycled materials, or any other logistical and technical considerations, and therefore cannot directly minimise the exploitation of virgin aggregates.”
31. Several submissions raise concerns regarding the interaction of SAT and UKAL and cross-border transfers. As highlighted by the Chartered Institute of Taxation (CIOT), the need to ascertain the precise location of commercial exploitation in order to determine which tax applies may lead to confusion for site operators and businesses. CIOT notes that “the Scotland Act 2016 provides that the basis for SAT is situs² of commercial exploitation”, therefore SAT cannot be based on the source of the aggregate within the current framework. It further explains that “by basing the charge in whichever country the aggregate is subject to commercial-exploitation, Scotland is losing out on the export revenue of their natural resources, but it is at least consistent with the UKAL’s position with exports”.
32. Should rates vary between Scotland and the rest of the UK, CIOT warns of the potential for adverse cross border behavioural impacts. The Scottish Environmental Services Association and Resource Management Association Scotland argue in favour of an increased rate of the tax to incentivise the wider adoption of recycled aggregates and ask for the two governments to work together to bring about a UK-wide increase in the Aggregates Tax (and Levy).
33. While provisions in Part 1 of the Bill are generally welcome, submissions received from CIOT, Institute of Chartered Accountants of Scotland (ICAS) and the Law Society of Scotland raise concerns regarding Part 2 of the Bill, covering the administration of devolved taxes by Revenue Scotland.
34. Both CIOT and ICAS express disappointment at the lack of public consultation regarding the provisions in Part 2 of the Bill. While CIOT considers the provisions to be reasonable and proportionate, it calls for clarification regarding the use of automation (section 55), the repayment refusal and offset provisions (sections 52 and 56), whether this can involve a mixture of devolved taxes and whether/to what extent the set-off provisions apply when an overdue tax is subject to an appeal. In their submission, CIOT argues that the inclusion of these provisions in “an unrelated piece of legislation further demonstrates the case for Scotland to be

² Location

able to pass its own annual Finance Bills for administrative changes”. A similar case is made by ICAS in their submission to the Committee. The Law Society of Scotland also argues in favour of a process that allows for regular maintenance of the devolved taxes, suggesting that this could form part of the budget process

35. In relation to Revenue Scotland’s power to offset credits and debts across the taxes it administers, ICAS argues that this “appears somewhat heavy-handed” and notes that similar powers may not be used extensively by HMRC, although they are currently seeking clarification in this regard. Based on the understanding that offsetting provision is only to apply to fully devolved taxes, ICAS considers the measure to be unnecessary and “possibly premature at this stage of the devolution process”.
36. The Law Society of Scotland seeks similar clarifications to CIOT in relation to section 52 (repayment refusal) of the Bill and raises concerns regarding the “proportionality and necessity” of provisions in section 56 (set-off in relation to tax credits and debits). It highlights the apparent lack of safeguards for taxpayers in the legislation to address the situation should they disagree with a Revenue Scotland decision about whether an amount of tax is outstanding. The Law Society, similar to ICAS, notes that off-set provisions are rarely used by HMRC and that their introduction “is disproportionate in a tax system which only includes two devolved taxes (being LBTT and the Scottish Landfill Tax).”
37. The Law Society also proposes that the following technical legislative changes be included in the Bill— Land and Buildings Transaction Tax (LBTT) Group Relief and Scottish Share Pledges (clarifying the availability of LBTT group relief for transactions which took place before 2018 but where Scottish share pledges were in place), legislative changes in relation to the five year period for the purposes of sub-sale development relief (SSDR), in respect of the LBTT, and other issues relating to LBTT group relief and company demergers.
38. In advance of the evidence session on 12 March, Revenue Scotland (RS) also provided a written submission, which sets out its proposed approach to administration of the SAT and the provisions contained in Part 2 of the Bill. The submission highlights its involvement in the development of the SAT and sets out that its “primary interest is the arrangements for payment, collection and management of the tax”. It further states RS has undertaken engagement with relevant bodies such as HMRC, SEPA and COSLA and have developed a stakeholder engagement approach with industry stakeholder groups “to gain input on key functions such as registration, the tax return and compliance”. It notes that approximately 150 current UK taxpayers have been identified who are likely to be required to register for SAT and indicates that it plans “to include an onboarding process prior to the tax going live”.
39. According to the submission from RS, provisions in Part 2 of the Bill can be separated into the following categories:
 - a) Communications and automation;
 - b) Set off; and

c) Clarifications and minor corrections.

40. In relation to the first power, communications, RS that this could be exercised in two potential areas “to improve efficiency and certainty. Firstly, to harness the efficiencies which would ensue from greater use of electronic communications, ensuring these are delivered in a fair, transparent manner and are accessible. Secondly, from an operational perspective, in relation to postal communications”. It further explains that “to future proof our legislation, we seek the facility for electronic communications in general rather than specifying a particular type of electronic communication, such as email”. The power of automation “could deliver efficiencies for the taxpayer and the public purse by enabling greater automation of certain routine tasks in a secure way”, for example, penalties arising from a late return or payment. The submission provides further clarification regarding set-off provisions, explaining that “the provision would only apply to properly constituted tax credits and debits, meaning where there is no dispute over either amount. This is consistent with the efficient operation of self-assessed devolved taxes, where taxpayers have told us how much money they are due to pay, and how much money is due back to them.”

Fact-finding visit

41. As part of its scrutiny of the Bill, the Committee visited the [Brewster Brothers](#) aggregates recycling facility in Livingston on Tuesday 27 February. A range of issues were discussed, including:

- the impact of the rate of the SAT on the recycled aggregates industry. It was suggested that possible ways of delivering the environmental aims of the Bill might include a higher rate of SAT, increasing the tax over a number of years, or the introduction of tax credits for the use of recycled aggregates;
- the impact of the tax on cross-border movement of aggregates and the pricing of aggregates including transport costs, which was suggested to amount to 40-60% of the delivered price;
- the availability of virgin and recycled aggregates and their geographical distribution across Scotland. Members heard that 50% of construction sites in Scotland are located within the Central Belt, where there are 14 recycling wash plants, such as the Brewster Brothers site in Livingston;
- the process for obtaining recycled aggregates from brownfield excavation waste and greenfield soil from new built sites; as well as
- the different uses and market share of recycled and virgin aggregates.

Previous evidence session

42. The Committee took oral evidence on the Bill at its meeting on [5 March 2025](#), when it heard from COSLA, the Mineral Products Association (MPA) Scotland and the Scottish Environmental Services Association (SESA). Issues explored during the evidence session included:

- restrictions and limitations on the ability of certain materials to meet the criteria required for use in roads or construction. MPA argued “there is a limit to how much recycled or secondary aggregates can be used”, however, SESA noted that materials such as incinerator bottom ash can have wider uses than currently accepted by the Scottish Environment Protection Agency (SEPA), with examples being given from the Netherlands, where similar materials were used in infrastructure including roads and runways.
- a lack of research and data on the future availability of construction and demolition waste within Scotland. MPA noted that this is a significant unknown, not only in terms of the quantity, but also the quality of the material available. SESA highlighted fluctuation in the resource available, depending on the construction and demolition market.
- the impact of the tax and of demand on the recycled aggregates market. SESA stated that a higher rate of tax would act as a financial incentive to reduce exploitation of virgin aggregates and direct more material away from landfill. It further noted that the recycling equipment currently available in Scotland has the ability to process more material, should there be enough demand for it.
- the impact of the tax on Councils, as substantial procurers of aggregate. COSLA noted that a higher rate of tax would impact on the ability of Councils to maintain necessary infrastructure and build new roads.
- cross-border shipments of aggregates. The Committee heard that the demand for cross-border transactions depends on the quality of the aggregate compared to the cost of transport.

Next steps

43. The Committee will continue taking evidence on the Bill at Stage 1 at its next meeting on 19 March 2024.

Committee Clerking Team
March 2024

Call for Views

The Committee's call for views on the Bill included the following questions—

1. Do you agree, in principle, that a tax should be levied on the commercial exploitation of primary aggregates?
2. Does the proposed Scottish Aggregates Tax (SAT) align with the Scottish Government's [Framework for Tax 2021](#), which sets out the principles and strategic objectives that underpin the Scottish Approach to Taxation? In particular, please set out the extent to which you consider that the proposed SAT reflects the principles of good tax policy making, included in the Framework for Tax, namely proportionality, certainty, convenience, engagement, effectiveness and efficiency.
3. In this Bill, the Scottish Government has chosen to use the same definition of aggregate for the SAT on the basis that "it is compatible with the intended objectives for the tax, is well understood by aggregate producers, and is supported by existing UK Aggregates Levy (UKAL) taxpayers". Do you agree with this approach of using the same definitions as UKAL for the Scottish Aggregates Tax?
4. Part 1, Chapter 2 of the Bill provides definitions of some terms such as aggregate. It also sets out exemptions to the SAT such as particular types of aggregate and excepted processes. Are these definitions and exemptions appropriate and will they deliver the strategic and policy objectives which the Scottish Government has set for the Bill?
5. Should the Bill be passed, aggregate moved to Scotland from the rest of the UK will be subject to SAT, while aggregate moved to the rest of the UK from Scotland is expected to be subject to UKAL on the same basis as imports. What are the main benefits and challenges that may arise in relation to the tax treatment of cross-border movement of aggregate? Do you foresee any cross-border issues, behavioural or revenue impacts arising from this proposed approach?
6. Are the arrangements for penalties and appeals as set out in the Bill appropriate?
7. Do you consider that the provisions set out in Part 2 of the Bill will support effective and efficient administration of devolved taxes by Revenue Scotland?
8. Are there other changes you would like to see included in Part 2 of the Bill to support the effective administration of devolved taxes in Scotland?
9. Do you consider that the estimated costs and savings set out in the Financial Memorandum for the Bill are reasonable and accurate? If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill?
10. One policy objective of the Bill is to minimise necessary exploitation of primary aggregates. Therefore, it appears that, similarly to the Scottish Landfill Tax, the policy objective of the Bill is to reduce revenues deriving from this tax power over time. Do you agree with this approach?



Aggregates Tax and Devolved Taxes Administration (Scotland) Bill - Call for Views

Response by the Chartered Institute of Taxation

1 Executive summary

- 1.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our nearly 20,000 members, and extensive volunteer network, in providing our response and our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party political organisation.
- 1.2 The proposed Scottish Aggregates Tax (SAT) provisions are broadly consistent with the existing UK aggregates levy (UKAL), which should assist with simplicity, continuity and familiarity for those affected. The power to make administrative adjustments by ministers to give effect to operational flexibility is necessary given the absence of a Scottish annual Finance Bill. However, we suggest that some of the provisions (such as the very wide 'ancillary provisions' power contained within s.59 in Part 2) should be embedded fully within this draft Bill for the purposes of greater certainty, scrutiny and transparency. We have no other significant concerns with Part 2 of the Bill, but any new administrative adjustments should only be introduced with prior warning and/or public consultation.

We also wish to highlight the potential loss of income to Revenue Scotland by the provisions concerning cross-border transactions between Scotland and rest of the UK (rUK), given the extent of Scotland's higher level of aggregate exports compared to imports. However, given the remit laid down of the Scotland Act 2016 with respect to commercial exploitation, the final provisions in the Bill represented the simplest option available to the Scottish Government. We would also suggest further controls (more detail below) are placed upon the system of credits with interactions between SAT and UKAL to reduce the likelihood of potential abuses taking place.

2 About us

- 2.1 The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.
- 2.2 The CIOT’s work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group, the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.
- 2.3 The CIOT draws on our members’ experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.
- 2.4 Our members have the practising title of ‘Chartered Tax Adviser’ and the designatory letters ‘CTA’ and ‘CTA(Fellow)’, to represent the leading tax qualification.

3 Introduction

- 3.1 Our stated objectives for the tax system include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

This call for evidence from the Scottish Parliament follows on from our response to an initial consultation in 2022 - ‘Breaking New Ground? Developing a Scottish tax to replace the UK Aggregates Levy’ held from September to December 2022, and our response to that¹.

4 The questions

- 4.1 ***Question 1. Do you agree, in principle, that a tax should be levied on the commercial exploitation of primary aggregates?***
- 4.2 The whole point of the UKAL was to dissuade the exploitation of primary aggregates and depletion of those natural resources, and instead provide a greater incentive to use secondary and recycled aggregate. We are unable to comment on the merit or otherwise of any policy behind environmental taxes, but agree that if maintaining natural resources in Scotland was the ultimate aim, focusing a tax on primary rather than secondary or recycled aggregate through a devolved levy seems a sensible use of taxation powers.

¹ <https://www.tax.org.uk/ref1025>

4.3 **Question 2. Does the proposed Scottish Aggregates Tax (SAT) align with the Scottish Government's Framework for Tax 2021, which sets out the principles and strategic objectives that underpin the Scottish Approach to Taxation?**

In particular, please set out the extent to which you consider that the proposed SAT reflects the principles of good tax policy making, included in the Framework for Tax, namely proportionality, certainty, convenience, engagement, effectiveness and efficiency.

4.4 The SAT, like the Scottish Landfill Tax will only affect a relatively small number of taxpayers, all of whom will be operating a business. Notwithstanding that, the tax clearly needs to be measured against the principles of good tax policy. The requirements for proportionality, certainty and convenience are seemingly met by these proposed changes: the proposed tax is a single rate per tonne, the simplicity of the uniform-application of the SAT with respect to a weight-based tax at a single rate would seem to meet those criteria. Engagement ie awareness of taxes, is a wider issue in which CIOT has been engaged for some time, but as the SAT is aimed at a specific industry which has been subject to the UKAL for over 20 years, we have no concerns with SAT in this regard. Paragraph 19 of the Policy memorandum states:

'.....The Framework ensures that decisions on tax policy are coherent and rooted in a defined set of principles and strategic objectives, rigorously appraised and developed through an established policy cycle, which puts proactive engagement with stakeholders and partners at the heart of tax policy making'

Through this extensive consultation process and meetings of the SAT advisory group (in which CIOT was represented), it can certainly be said that 'rigorous appraisal' has also been carried out.

Regarding effectiveness and efficiency, again the simplicity of the levy and the existing UKAL should mean that the SAT will be as efficient and effective as it can be, given the constraints of the Scotland Act 2016. We note that s.37 of the Bill allows for the delegation of powers to the Scottish Environmental Protection Agency (SEPA) or any other authority. Their involvement could potentially assume the burden of enforcing the SAT at 'ground level' on the sites and managing data collection, thus allowing Revenue Scotland to focus on the administration and collection of the SAT itself.

One area of widespread concern is the interaction of SAT and UKAL and cross-border transfers. This is the first time a devolved tax will be levied on assets that are also potentially subject to a similar tax in rUK. The potential problems this might raise were acknowledged within the Policy Memorandum:

'recognition of the complexities associated with creating two tax jurisdictions where there was previously one, including in terms of the treatment of crossborder movements of aggregate and the importance of avoiding double taxation²'

The precise location of commercial exploitation will need to be ascertained to determine which tax applies. There is a possibility that, in the early stages after implementation, there might be scope for confusion until site operators and businesses are used to the new SAT and the interaction with UKAL. To minimise the risk of this, we would advise that sufficient guidance and assistance is available for SAT payers. The strategic objectives within the Framework for tax are: stable revenues, wellbeing economy, national outcomes, and responsive to societal shifts. Given the projected (increasing) share of Scottish revenues from UKAL per the Financial Memorandum, there is no reason to suppose that the SAT will not yield stable revenues. However, with respect to exports to the rUK (which substantially outweigh imports), Scotland is losing out on revenue from Scottish-

² Paragraph 37

sourced aggregate when commercially-exploited in rUK (believed to be between £6-10million assuming a £2 per tonne levy).

- 4.5 ***Question 3. In this Bill, the Scottish Government has chosen to use the same definition of aggregate for the SAT on the basis that 'it is compatible with the intended objectives for the tax, is well understood by aggregate producers, and is supported by existing UK Aggregates Levy (UKAL) taxpayers'. Do you agree with this approach of using the same definitions as UKAL for the Scottish Aggregates Tax?***
- 4.6 Yes. Part of our remit is to promote simplification within the tax system(s), so we would support any move which makes the SAT more accessible and simpler for those affected by it. If that can be achieved by offering definitions in line with an existing and familiar levy, then we would support such a move.
- 4.7 ***Question 4. Part 1, Chapter 2 of the Bill provides definitions of some terms such as aggregate. It also sets out exemptions to the SAT such as particular types of aggregate and excepted processes. Are these definitions and exemptions appropriate and will they deliver the strategic and policy objectives which the Scottish Government has set for the Bill?***
- 4.8 Yes, by keeping the definitions and exemptions largely in line with those within the existing UKAL, we believe they are appropriate. Paragraph 63 of the Policy Memorandum encapsulates our view by saying:
- '....(1) the definitions had developed over a long period of time with extensive engagement between the UK Government and stakeholders, (2) they are widely understood by the industry, and (3) they had been considered and validated through litigation, including by the European courts'*
- 4.9 ***Question 5. Should the Bill be passed, aggregate moved to Scotland from the rest of the UK will be subject to SAT, while aggregate moved to the rest of the UK from Scotland is expected to be subject to UKAL on the same basis as imports. What are the main benefits and challenges that may arise in relation to the tax treatment of cross-border movement of aggregate? Do you foresee any cross-border issues, behavioural or revenue impacts arising from this proposed approach?***
- 4.10 The Scotland Act 2016 provides that the basis for SAT is situs of commercial exploitation, so to base SAT on the source of the aggregate would have needed a change of that legislation; any such change rests with the UK Government. Consequently, the SAT provisions need to be as drafted. This is an area of some concern, which we addressed within our 2022 consultation response and subsequently. By basing the charge in whichever country the aggregate is subject to commercial-exploitation, Scotland is losing out on the export revenue of their natural resources, but it is at least consistent with the UKAL's position with exports – so the simplicity, familiarity and consistency with UKAL is one benefit.

We would not foresee adverse cross border behavioural impacts, but that is assuming the actual rate of SAT will be similar to the prevailing UKAL rate. Whilst we do not comment on individual tax rates themselves, clearly if there were a significant differential in rates between SAT and UKAL, then behavioural impacts would be more likely. The revenue impacts are the most profound. Scotland exports far more aggregate to rUK than it imports (over 5.5million tonnes compared to 16,000 tonnes), so the Scottish Government will be losing out on a significant amount of revenue with that commercial exploitation taking place in rUK (although we would assume this would be reflected in the block grant adjustments – see our answer to question 9 below). The credit for movement of aggregate from Scotland to rUK does potentially expose SAT to risk of abuse. A credit could be claimed for movement to rUK whilst actually delivering the aggregate for use in Scotland, either directly or indirectly by a third person. This risk could be mitigated through secondary legislation and conditions imposed for the credit to be allowed. For example, it could be a requirement that the taxpayer claiming the credit has to obtain proof of registration for UKAL and proof that UKAL has been declared and paid. This would

mirror the requirements currently in place for plastic packaging tax where a credit is claimed for components which are subject to a later conversion.

4.11 Question 6. Are the arrangements for penalties and appeals as set out in the Bill appropriate?

4.12 Yes, the provisions for penalties and appeals seem appropriate. However, the proposed s.43, which introduces a new section 216B into the Revenue Scotland and Tax Powers Act (RS&TPA) 2014, creates a penalty of 100% of the potential lost revenue where a document submitted to Revenue Scotland in support of a tax credit claim for industrial and agricultural process relief is incorrect. This penalty applies to both the person submitting the document to Revenue Scotland and any person who provided it to anyone else with a view to it being used as evidence to support a claim for tax credit. In practice, a customer will provide a document supporting the claim for industrial and agricultural process relief to the quarry operator. The quarry operator then submits the claim for relief. The customer is the person initiating the claim for relief and has the best knowledge of their process. It would seem appropriate that a Scotland-based customer should face the consequence of making an incorrect claim in the form of a penalty of 100% of the tax claimed. But it seems unduly harsh that the quarry operator would also be subject to a penalty of 100% of the tax claimed (meaning that Revenue Scotland can impose two 100% penalties for a single error), rather than being subject to the normal self-assessment regime of behaviour-based penalties for errors in their tax returns. We also note, however, that Revenue Scotland already has the power under s.185 RS&TPA to impose penalties on a taxpayer who deliberately submits false information claiming industrial and agricultural process relief which is not properly due to the quarry operator.

4.13 Question 7. Do you consider that the provisions set out in Part 2 of the Bill will support effective and efficient administration of devolved taxes by Revenue Scotland?

4.14 There are two general points we wish to make about Part 2: first, we are disappointed that these provisions were not subject to public consultation; the public was not even made aware that they would be announced. Second, the fact that they had to be included within an unrelated piece of legislation further demonstrates the case for Scotland to be able to pass its own annual Finance Bills for administrative changes like this.

Notwithstanding those comments about Part 2's publication, overall, we believe those provisions will aid an effective and efficient running of the administration of devolved taxes. The changes seem reasonable and proportionate. However, there are certain safeguards that should be included within this primary legislation. We would like some assurances that investigation will be made by Revenue Scotland into the individual taxpayer's circumstances before putting such powers into action. For example, a taxpayer may be reliant upon a repayment which is being denied or offset, with such a move causing undue hardship. It should also be made clear, with respect to the repayment refusal and off-set provisions (sections 52 and 56 respectively), whether it can involve a mixture of devolved taxes or they must be the same eg whether a Land and Buildings Transaction Tax (LBTT) liability could be offset by an SAT repayment. Whilst it may be unlikely that the same taxpayer would incur debits and credits across the current devolved taxes, any future expansion of Revenue Scotland's remit would make this issue more relevant. To most taxpayers, it would probably seem unjust to deny the repayment of one tax just because another is outstanding; the two would be completely unrelated and based on entirely different transactions, the fact that they are both fully devolved taxes is not reason enough to treat them as the same tax. Clarification would also be needed as to whether/to what extent the set-off provisions apply when an overdue tax is subject to an appeal.

We also have some concerns over the use of automation under s.55. Having something as important as tax delegated to computers, rather than allowing a taxpayer to interact with a human being, should not be permitted without safeguards against errors. The well-known scandal involving sub-postmasters and an IT system is a stark (though admittedly extreme) warning of what could happen when unquestioning reliance is

placed on computers. The draft legislation allows ministers to automate functions of Revenue Scotland through regulations, with minimal scrutiny or transparency. Provisions like this should be contained within primary legislation and with clear limitations (see further points on our answer to question 8 below).

4.15 *Question 8. Are there other changes you would like to see included in Part 2 of the Bill to support the effective administration of devolved taxes in Scotland?*

4.16 As with some of the provisions mentioned above, the ‘ancillary provision’ powers afforded to ministers within s.59 in Part 2 would appear to be very wide – as acknowledged in the Delegated Powers Memorandum. We would prefer these powers to come with limitations and safeguards, rather than be so open-ended and subject to regulations only. The authority granting those powers should be exclusively within primary legislation to afford certainty and permit greater scrutiny. Primary legislation concerns itself with what is taxed ie when an obligation is imposed upon the citizens of a country; whereas secondary legislation should confine itself to powers on how the tax is administered. The ability of the executive to grant itself unfettered powers which might impose any further obligations on taxpayers must be contained within primary legislation, for the sake of transparency and legitimacy.

4.17 *Question 9. Do you consider that the estimated costs and savings set out in the Financial Memorandum for the Bill are reasonable and accurate? If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill?*

4.18 We are not in a position to comment on this; however, we would ask that figures relating to the potential loss of revenue to Scotland with respect to cross-border transactions be included within the document as far as possible. We would also like to see figures concerning how this Bill might affect the block grant.

We note that there is no assessment of the additional cost to business at this point. For rUK operators supplying aggregate to Scotland there will be an evident business impact. These changes will inevitably increase the workload and associated costs in needing to have two registrations going forward, with two sets of reporting requirements, preparing, reviewing, reconciling and filing both UKAL and SAT returns and dealing with any queries or audits.

4.19 *Question 10. One policy objective of the Bill is to minimise necessary exploitation of primary aggregates. Therefore, it appears that, similarly to the Scottish Landfill Tax, the policy objective of the Bill is to reduce revenues deriving from this tax power over time. Do you agree with this approach?*

4.20 We are not in a position to comment on the merit or otherwise of policy objectives.

5 Acknowledgement of submission

5.1 We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

ICAS response to Scottish Parliament consultation:

About ICAS

1. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants. We represent over 23,000 members working across the UK and internationally. Our members work in the public and not for profit sectors, business and private practice. Approximately 10,000 of our members are based in Scotland and 10,000 in England. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good.
2. The following submission has been prepared by the ICAS Tax Board. The Tax Board, with its six technical Committees, is responsible for putting forward the views of the ICAS tax community; it does this with the active input and support of over 60 committee members.

General comments

3. ICAS welcomes the opportunity to feed into the Scottish Parliament's work in respect of the call for views on the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill. We generally welcome the proposals to introduce the Scottish Aggregates Tax as a fully devolved tax as set out in Part 1 of the Bill. We have some specific points to raise in terms of Part 2 of the Bill.
4. If guidance is to be produced in respect of the revised legislative provisions, we, as a trusted stakeholder of the Scottish Government would welcome sight of the draft guidance and be given the opportunity to comment on it before it is finalised and released. ICAS has been invited to participate in the "Aggregates Tax and Devolved Taxes Admin Bill advisory group" and we welcome the opportunity to feed into those discussions.
5. We consider it essential to ensure that any guidance is well publicised to the public and in the sector to ensure a wider understanding of the legislation's existence and its provisions to promote compliance. Historically we have found that generally speaking, awareness of Scottish taxes is not high in Scotland¹ and there is a need for improvement of communications by the Scottish Government to ensure this improves, in line with the Scottish Government's own Framework for Tax principles.

¹ [ICAS joins forces with CIOT to call for review of the Scottish tax system | ICAS](#)

6. ICAS, along with other professional bodies and stakeholders, continues to call for care and maintenance provisions in the form of a regular fiscal Bill which allows for a point in time at which all amendments to legislation are carried out, rather than undertaking piecemeal changes to tax legislation, which the public, as well as tax and legal professionals, find difficult to follow and locate. It is much easier to refer to a Finance Act or equivalent when researching legislative updates than it is to have to search through different provisions and SSIs to ensure one has a correct understanding and application of the current law.

There have been various examples of ad-hoc changes being made to LBTT in the years since it was introduced, but the best example is the Scottish Aggregates Tax and Devolved Administration (Scotland) Bill, which contains two parts – part one dealing with Aggregates Tax and part two dealing with amendments to Revenue Scotland powers and LBTT-related amendments – i.e. a different tax to Aggregates. If all the changes made in 2023/24 were wrapped up in one Finance Bill, there would be no need to search elsewhere for them, which is more transparent. The more devolved taxes which are introduced, the greater the need for fiscal transparency.

Specific Responses to Questions

1. Do you agree, in principle, that a tax should be levied on the commercial exploitation of primary aggregates?

No comment

2. Does the proposed Scottish Aggregates Tax (SAT) align with the Scottish Government's Framework for Tax 2021, which sets out the principles and strategic objectives that underpin the Scottish Approach to Taxation? In particular, please set out the extent to which you consider that the proposed SAT reflects the principles of good tax policy making, included in the Framework for Tax, namely proportionality, certainty, convenience, engagement, effectiveness and efficiency.

ICAS considers that the approach taken in formulating the Bill has been in line with the method set out in the Framework for Tax 2021. The Scottish Government officials responsible for the work have endeavoured to engage with relevant stakeholders and sector experts to understand which elements were most needed and what the likely outcomes might be. It is vital that Revenue Scotland polices compliance with the tax effectively, hopefully by liaising extensively with SEPA and ensuring that SEPA has the powers and resources it needs to regulate the aggregates sector and ensuring that appropriate sanctions are in place for non-compliant behaviours which affect fair competition within the sector.

We notice that whilst Landfill is currently listed as one of SEPA's sector plans, Mining and Quarrying is listed as a sector under development. Will SEPA align the introduction of their sector plan to coincide with the introduction of SAT in 2026 to ensure it is effective?

3. In this Bill, the Scottish Government has chosen to use the same definition of aggregate for the SAT on the basis that "it is compatible with the intended objectives for the tax, is well understood by aggregate producers, and is supported by existing UK Aggregates Levy (UKAL) taxpayers". Do you agree with this approach of using the same definitions as UKAL for the Scottish Aggregates Tax?

ICAS welcomes the use of consistent definitions with the existing UK legislation – this ensures greater understanding through transparency and promotes greater engagement and compliance. Where a business entity is trading across borders, consistency of definitions is of particular importance.

4. Part 1, Chapter 2 of the Bill provides definitions of some terms such as aggregate. It also sets out exemptions to the SAT such as particular types of aggregate and excepted processes. Are these definitions and exemptions appropriate and will they deliver the strategic and policy objectives which the Scottish Government has set for the Bill?

ICAS notes and welcomes that most definitions and exemptions are aligned with the UK legislation. The definition of commercial exploitation within Section 7 para 9 of the bill covers movement of aggregate to Scotland from the rest of the UK (rUK) – however, the equivalent UK legislation Part 2 section 19 of Finance Act 2001 does appear to have a provision covering movement of aggregate from Scotland to rUK (even taking account of FA 2023 changes). In the absence of equivalent UK legislation, how will rUK know they are liable to register for SAT?

5. Should the Bill be passed, aggregate moved to Scotland from the rest of the UK will be subject to SAT, while aggregate moved to the rest of the UK from Scotland is expected to be subject to UKAL on the same basis as imports. What are the main benefits and challenges that may arise in relation to the tax treatment of cross-border movement of aggregate? Do you foresee any cross-border issues, behavioural or revenue impacts arising from this proposed approach?

ICAS considers the main challenge in relation to the tax treatment of cross border aggregates to be compliance with Section 18 of the bill (Duty to register for tax), especially where aggregate is moved to Scotland from rUK. There is a potential loss of

revenue where there is insufficient policing and deterrents to non-compliance, whether deliberately or inadvertently avoiding the levy.

6. [Are the arrangements for penalties and appeals as set out in the Bill appropriate?](#)

ICAS does not consider the penalties and appeals arrangements to be inappropriate. Proportionality is an important consideration of any penalty regime, and no penalty should exist purely to raise revenue, but should instead act as a deterrent to non-compliance. Guidance on the penalty regime applying to Scottish Aggregates Tax should be widely communicated to ensure transparency.

7. [Do you consider that the provisions set out in Part 2 of the Bill will support effective and efficient administration of devolved taxes by Revenue Scotland?](#)

ICAS is disappointed that Part 2 of the Bill was not consulted on with stakeholders prior to being laid before Parliament. Other items which also need to be addressed could have been included in the Bill, had the Bill been given a different title – we point out an example of this at 8. below. Appropriate safeguards also appear to be missing from part 2 of the Bill.

ICAS understands that the set-off provisions as set out in Part 2 Section 56 of the Bill are based on the provisions as set down in s.130 FA2008. At present, it appears somewhat heavy-handed for Revenue Scotland to have, and use, a power to offset credits and debts across the taxes which is has responsibility for administering. In addition, we and other stakeholders are not conscious of the measure at s.130 FA 2008 having been used extensively in the UK to date, or as an initial response to recovering debt – we are currently seeking clarification from HMRC in this regard. So, whilst HMRC may have a power to offset, it may not use it to the extent that one might think from reading the legislative provisions and guidance.

We understand that the offsetting provision is only to apply to sums due to and from Revenue Scotland in relation to fully devolved taxes, but not in connection with any reserved taxes administered by the UK government. It can apply across the devolved taxes and within the taxes (such as with LBTT and ADS for example).

As such, the offsetting mechanism could only apply to LBTT, Scottish Landfill Tax (SLfT) and when they are fully functional, Scottish Aggregates Tax (SAT) and Scottish Building Safety Levy (SBSL), which we understand is also to be administered by Revenue Scotland and not local authorities as it is in England.

This basket of taxes does not appear to be particularly predisposed to being interchangeable – in other words, the likelihood of say, LBTT and SAT being paid by the same taxpayer seems extremely small, as does the likelihood of an SLfT taxpayer being asked to, and agreeing to, offset liabilities against LBTT or SBSL. Whilst we appreciate that LBTT is prevalent across all areas of business, the taxes in question are relatively small in scale in terms of revenue value.

A likely outcome of/reaction to the attempt by Revenue Scotland to offset debts against credits is that appeals might be submitted by taxpayers to prevent the offsetting process from proceeding due to a dispute, which would lead to unnecessary administration for Revenue Scotland and potentially, the Tax Tribunal.

Taking the above considerations into account, the measure seems unnecessary and is possibly premature at this stage of the devolution process, unless Revenue Scotland can bring robust evidence to bear that this would be a worthwhile exercise at this stage, and that the measure has been fully costed as there will undoubtedly be a cost to the offsetting process. We have stated above that there is an increasing need for a fiscal event to cater for exactly this kind of proposal. ICAS believes that it would be advisable to wait until the policy on this has been developed further and there are more devolved taxes to work with, before implementing this measure, ideally through a fiscal Bill.

8. [Are there other changes you would like to see included in Part 2 of the Bill to support the effective administration of devolved taxes in Scotland?](#)

Ideally, this Bill would have included provision for the following matter:

- ICAS understood that the Scottish Government intends to give retrospective effect to the amendments to group relief provisions as introduced by the LBTT (Group Relief Modification) (Scotland) Order 2018. That Order only provided relief on transactions which took place on or after 30 June 2018 and did not address the matter of retrospection. This Bill could potentially include the relevant changes which need to be made to the LBTT (Scotland) Act 2013 Schedule 10 which would result in the activation of retrospective relief availability.

9. [Do you consider that the estimated costs and savings set out in the Financial Memorandum for the Bill are reasonable and accurate? If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill?](#)

No comment

10. One policy objective of the Bill is to minimise necessary exploitation of primary aggregates. Therefore, it appears that, similarly to the Scottish Landfill Tax, the policy objective of the Bill is to reduce revenues deriving from this tax power over time. Do you agree with this approach?

The approach is not an unusual one and it remains to be seen whether the stated policy objectives will result in the desired outcomes. It is important to make this policy intention clear in public and sector specific communications. A specific timeframe would be difficult to conceive of given the current continuing need for new and recycled aggregate in construction projects, which over time may be superseded by Modern Methods of Construction.

Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Tax Law sub-committee welcomes the opportunity to consider and respond to the Finance and Public Administration Committee's call for views on the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill (the **Bill**).¹ The sub-committee has the following comments to put forward for consideration.

General Comments

Our comments primarily concern the administrative amendments to the Revenue Scotland and Tax Powers Act 2014, provided for at Part 2 of the Bill. Whilst we welcome changes made to improve the efficiency of the devolved tax system, we have concerns about some of the Bill's provisions, in particular section 52 and section 56. We also believe that there are a number of additional necessary changes to the devolved tax legislation which could have been included in the Bill. We comment further on these changes in our response to question 8 below. We appreciate that any legislative changes included in the Bill need to fall within its scope. However, we would have welcomed the scope of Part 2 of the Bill to have been framed in such a way that these additional changes could have been included within the Bill as introduced.

We note that the Scottish Government's overall approach to taxation is embedded in Adam's Smith's four principles: certainty, convenience, efficiency and proportionality to the ability to pay; and based on a firm approach to tax avoidance and a commitment to stakeholder engagement. We consider that is important therefore that the proposed Scottish Aggregates Tax (**SAT**) respects these principles.

It is important that the law is clear so that individuals and businesses can guide their conduct accordingly. We highlight the importance of any changes to the policy and legislative position in this area being accompanied by an appropriate awareness-raising campaign and clear guidance to assist taxpayers and their professional advisers. We consider it essential that guidance is published in advance of the introduction of the SAT and the other proposed changes taking effect, to allow a sufficient lead-in time for taxpayers and their professional advisers to familiarise themselves with the updated provisions.

We also highlight that the provisions at Part 2, as discussed at questions 7 and 8 below, are reflective of why we would greatly welcome the introduction of a process that allows for regular maintenance of, and amendment to, the devolved taxes. We suggest that this would form part of the budget process, including formalising a regular timetable and mechanism for stakeholders to give input on any operational and policy

¹ [Aggregates Tax and Devolved Taxes Administration \(Scotland\) Bill](#)

concerns with the tax legislation – including so-called “care and maintenance” matters as well as substantive changes to tax policy and to rates and bands.

We believe that an annual process, perhaps including an annual “fiscal event”, would allow for greater transparency and increased opportunity for proposed draft legislation to be considered by stakeholders.

Questions

- 1. Do you agree, in principle, that a tax should be levied on the commercial exploitation of primary aggregates?**

We have no comments to make.

- 2. Does the proposed Scottish Aggregates Tax (SAT) align with the Scottish Government’s Framework for Tax 2021, which sets out the principles and strategic objectives that underpin the Scottish Approach to Taxation? In particular, please set out the extent to which you consider that the proposed SAT reflects the principles of good tax policy making, included in the Framework for Tax, namely proportionality, certainty, convenience, engagement, effectiveness and efficiency.**

We have no comments to make.

- 3. In this Bill, the Scottish Government has chosen to use the same definition of aggregate for the SAT on the basis that “it is compatible with the intended objectives for the tax, is well understood by aggregate producers, and is supported by existing UK Aggregates Levy (UKAL) taxpayers”. Do you agree with this approach of using the same definitions as UKAL for the Scottish Aggregates Tax?**

We note the consistency in the definition of aggregate for the SAT, and consider that a potential benefit of this approach is clarity for taxpayers working with the both the SAT and UK Aggregates Levy.

- 4. Part 1, Chapter 2 of the Bill provides definitions of some terms such as aggregate. It also sets out exemptions to the SAT such as particular types of aggregate and excepted processes. Are these definitions and exemptions appropriate and will they deliver the strategic and policy objectives which the Scottish Government has set for the Bill?**

We have no comments to make.

- 5. Should the Bill be passed, aggregate moved to Scotland from the rest of the UK will be subject to SAT, while aggregate moved to the rest of the UK from Scotland is expected to be subject to UKAL on the same basis as imports. What are the main benefits and challenges that may arise in relation to the tax treatment of cross-border**

movement of aggregate? Do you foresee any cross-border issues, behavioural or revenue impacts arising from this proposed approach?

We have no comments to make.

6. Are the arrangements for penalties and appeals as set out in the Bill appropriate?

We have no specific comments on the penalties themselves, other than to note that these should be reasonable in the circumstances and reflect the desire to ensure compliance, rather than being used as a mechanism to raise revenue. The possible penalties themselves should also be well publicised and should be proportionate to the amounts involved.

7. Do you consider that the provisions set out in Part 2 of the Bill will support effective and efficient administration of devolved taxes by Revenue Scotland?

As mentioned above, we have concerns about section 52 and section 56 of the Bill.

Section 52 of the Bill seeks to deny taxpayers the right to make a repayment claim (an overpayment relief claim) where the taxpayer has failed to pay an amount of a different tax. We would welcome greater clarity in relation to this provision. For example, on the intended effect of the words “an amount of a different tax to the tax which is the subject of the claim” – particularly whether this is intended to only cover tax arising from a different devolved tax (to that in relation to the repayment claim), or whether this would apply in relation to a separate liability arising under the same tax (e.g. two separate Land and Buildings Transaction Tax (**LBTT**) returns). Assuming that it does only apply to amounts due under another devolved tax, we anticipate that this situation is unlikely to arise often in practice. In addition, there do not appear to be any safeguards for taxpayers to deal with situations where the taxpayer may not agree that they have failed to pay an amount of tax, because they do not believe the tax is payable. We believe the draft legislation should make it clear that the new Case H would not apply where there was a dispute over the outstanding tax amount.

We also note the provisions concerning set-off by Revenue Scotland in relation to tax credits and debits, provided for at section 56. We have concerns as to the proportionality and necessity of these powers being introduced. As with section 52, there do not appear to be any safeguards for taxpayers in the legislation to address the situation where there is a dispute between a taxpayer and Revenue Scotland about whether an amount of tax is outstanding. We understand that the provisions in section 56 are based on equivalent UK provisions in the Finance Act 2008, section 130. We would highlight that, so far as we are aware, the provisions at section 130 are not used very often, and we would suggest that its introduction is disproportionate in a tax system which only includes two devolved taxes (being LBTT and the Scottish Landfill Tax). We anticipate that, even if the number of devolved taxes increase to include the prospective SAT and Scottish Building Safety Levy, there will not be many situations in practice where the set off provisions like those in section 56 would apply. We further anticipate that difficulties would arise in the operation of this power, and would welcome greater information on the proposed use and policy intention behind it.

8. Are there other changes you would like to see included in Part 2 of the Bill to support the effective administration of devolved taxes in Scotland?

There are several further technical legislative changes that we would welcome to support the effective administration of devolved taxes in Scotland, detailed below, should it be possible for these to be legislated for in the Bill.

A. LBTT Group Relief and Scottish Share Pledges

The Bill could provide the opportunity to make changes to Schedule 10 of the Land and Buildings Transaction Tax (Scotland) Act 2013, in order to give retrospective effect to the amendments to the group relief provisions which were made by The Land and Buildings Transaction Tax (Group Relief Modification) (Scotland) Order 2018. These changes were made to address the LBTT group relief issues caused by Scottish share pledges which had the effect of denying LBTT group relief. The 2018 changes only apply to transactions with an effective date on or after 30 June 2018, because they were introduced by statutory instrument and so could not have retrospective effect. This meant that in relation to many transactions entered into before 2018, taxpayers could have claimed LBTT group relief in circumstances where it was not in fact available.

The Scottish Government indicated in 2018 that it would introduce primary legislation to give retrospective effect to the 2018 changes at an appropriate future date. We understand that the Scottish Government's policy intention is still to legislate to give retrospective effect to the changes at an appropriate future opportunity. For example, please see the extract below from Revenue Scotland's guidance at LBTT 3025:²

"The Scottish Government has announced its intention to bring forward legislation to give retrospective effect to the Order at an appropriate future opportunity. Until such legislation has been approved by the Scottish Parliament and formally commenced, the un-amended legislation will continue to apply to transactions where the effective date is before 30 June 2018."

We consider that the Bill appears to offer an opportunity to give retrospective effect to the changes made by the 2018 Order, which would be of great assistance to taxpayers who entered into transactions before 30 June 2018 and looked to claim group relief, but where share pledges were in place so that in fact group relief was not available. Although some time has now passed since the changes were made by the 2018 Order, the point does still come up in due diligence reviews carried out in advance of purchase transactions. It would therefore be very helpful if appropriate changes could be made to the LBTT group relief legislation to make it clear that LBTT group relief was, in fact, available in transactions which took place before 2018 but where Scottish share pledges were in place.

B. LBTT Sub-sale Development Relief – 5 Year Period

We also note that legislative changes would be welcomed to in relation to the five year period for the purposes of sub-sale development relief (**SSDR**), in respect of the Land and Buildings Transaction Tax. The relevant provisions are found in the Land and Buildings Transaction Tax (Scotland) Act 2013, Schedule 10A, paragraph 4(3).

² Accessible here: [LBTT3025 - Group relief | Revenue Scotland](#).

For context, in a transaction where A contracts to sell to B, and before that contract has completed, B contracts to sell to C, B can claim SSDLR provided significant development on the land is carried out by C within five years. However, currently the legislation refers to the incorrect five year period. The legislation as currently drafted provides that the five year period runs from the date when B enters into the contract with C, and not from the date the two contracts are completed, and C owns the land. No development can start until C actually owns the land, as C could not start development on land which they did not yet own. As such, we consider it is clear that the five year period should run from the date when C acquires the land, rather than from the date B contracts to sell the land to C.

We therefore consider that the LBTT legislation should be amended so that the five year period in which development has to take place runs from completion of the B to C contract, rather than from the date the B to C contract is entered into (which could be several years earlier).

C. LBTT Group Relief and Demergers

There are also some other issues relating to LBTT group relief and company demergers, which have the effect of denying LBTT group relief in situations where Stamp Duty Land Tax (**SDLT**) group relief would be available. One of these issues relates to non-partition demergers, i.e. where the business and assets of a company are transferred to two separate companies for various commercial reasons, but the owners of the new companies are the same as the owners of the "old company". In these circumstances other UK tax reliefs, including SDLT relief, is available so that the reorganisation can take place without tax charges – however, LBTT group relief is not available. This is because HMRC guidance confirms that SDLT group relief is available in non-partition demergers, despite the fact that the strict wording of the legislation would deny relief. We understand that it is not the Scottish Government's policy intention to deny LBTT group relief in non-partition demergers, but it has not proved possible for Revenue Scotland to issue guidance which has the same effect as the equivalent SDLT guidance. In order to allow LBTT group relief to be available in non-partition demergers, a change to the primary LBTT legislation would be required.

9. Do you consider that the estimated costs and savings set out in the Financial Memorandum for the Bill are reasonable and accurate? If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill?

We have no comments to make.

10. One policy objective of the Bill is to minimise necessary exploitation of primary aggregates. Therefore, it appears that, similarly to the Scottish Landfill Tax, the policy objective of the Bill is to reduce revenues deriving from this tax power over time. Do you agree with this approach?

We have no comments to make.

**SCOTTISH PARLIAMENT FINANCE AND PUBLIC ADMINISTRATION COMMITTEE
AGGREGATES TAX AND DEVOLVED TAXES ADMINISTRATION (SCOTLAND) BILL
WRITTEN EVIDENCE - RESPONSE FROM REVENUE SCOTLAND**

1. Revenue Scotland

1.1 Revenue Scotland (RS) welcomes the opportunity to contribute to the Finance and Public Administration Committee's call for evidence on the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill (the "Bill").

1.2 RS is the tax authority responsible for the collection and management of the devolved taxes, currently Land and Buildings Transaction Tax (LBTT) and Scottish Landfill Tax (SLfT). These taxes came into effect on 1 April 2015, replacing their UK equivalents (Stamp Duty Land Tax and UK Landfill Tax respectively). If this Bill is enacted, we will also be responsible for the collection and management of Scotland's third devolved tax, the Scottish Aggregates Tax (SAT), with commencement planned for 1 April 2026.

1.3 RS was established by the Revenue Scotland and Tax Powers Act 2014 (RSTPA) as a Non-Ministerial Office on 1 January 2015. RS is governed by a Board, is part of the Scottish Administration and is accountable to Parliament to ensure that the collection and management of the devolved taxes is independent, fair and impartial. As part of that accountability, we lay our Corporate Plan before the Parliament on a 3 yearly cycle.

1.4 RS is not involved in tax policy issues such as the setting of tax rates and bands or the forecasting of tax revenues, which are the responsibility of the Scottish Government. In that context, this response to the Committee's call for evidence focuses primarily on the proposed administrative arrangements for the collection and management of SAT.

2. Background - Revenue Scotland's approach to tax administration

2.1 The Committee will be aware the four 'Adam Smith principles' of certainty, convenience, efficiency and proportionality. The additional principles of effectiveness and engagement were added by the Scottish Government in their tax strategy [Framework for Tax 2021 - gov.scot \(www.gov.scot\)](http://www.gov.scot). These 6 principles form the basis of our approach to the collection and management of the devolved taxes. In addition to those principles, our commitment to a digital approach to the collection of tax, and a strong commitment to working collaboratively with stakeholders, have shaped the design and delivery of the taxes we manage. This proven approach has been instrumental in our successful launch and operation to date.

2.2 The implementation of the first two devolved taxes demonstrated the benefits of close working by all those with an interest, including the Parliament, Scottish Government, stakeholders and ourselves. We are seeking to ensure that the learning from the first two devolved taxes is applied to SAT.

3. Work to date

Revenue Scotland's Involvement in the Bill process

3.1 It is important for taxpayers and public revenues that the legislative scheme is clear,

certain and provides a framework for effective and efficient compliance and administration. We have therefore liaised closely with Scottish Government to understand the proposals for SAT. We have worked closely with the Bill team, including on the development of the consultation paper in late 2022, stakeholder engagement including site visits and the establishment of a working group.

3.2 Our primary interest is the arrangements for payment, collection and management of the tax. The framework is set out at Part 1 Chapters 4-6 of the Bill. We played a key role in the development of the provisions in the Bill. A large element of the administrative machinery will be set out in secondary legislation and we are working closely with the Scottish Government to ensure that the legislation supports the development of a clear, efficient and convenient system for administering the tax.

3.3 We also played an instrumental role in working with the Scottish Government to develop the administrative improvements to RSTPA as detailed in Part 2 of the Bill.

4. Establishment of the programme

4.1 The Revenue Scotland programme to oversee its role in the delivery of SAT on 1 April 2026 was established in July 2023.

4.2 Our programme management approach is based on Scottish Government's Principles for Programme and Project Management best practice principles and experience distilled from our successful delivery of SLfT and LBTT (2015), the Additional Dwelling Supplement (ADS) for LBTT (2016) and work done in preparation for the launch of Air Departure Tax.

4.3 The programme board is accountable to our Head of Tax as Senior Responsible Officer (SRO), who reports to our Chief Executive and Board, and includes staff from various of our in-house teams. SG is represented by its Head of Fully Devolved Taxes Unit, and representation from wider SG and the Welsh Revenue Authority provide additional assurance around our IT approach. COSLA is also represented. The make-up of the Board will be reviewed as we proceed, to align with its tasks.

4.4 We established a programme of activity that consists of three key projects:

- (a) **Tax Design** – responsible for defining operational requirements, data requirements, organisational design, and delivery of the required products, including guidance for taxpayers, working with Scottish Government, as well as our tax team and external stakeholders.
- (b) **Information and Communications Technology (ICT)** – responsible for the requirements gathering, specification, build and design of the technological infrastructure to collect and manage SAT. This will include provision of the online registration process for taxpayers, tax collection system - building on our Scottish Electronic Tax System (an electronic tax administration system called "SETS") and the necessary enhancements to other ICT systems such as telephony, website, and finance systems.
- (c) **Corporate Readiness** – responsible for facilitating stakeholder engagement, internal and external programme communications, and readiness activities to

ensure we are fully equipped to support the delivery of SAT. This includes the impact of the delivery of a new tax across all of our functions, ensuring that all current processes and reporting requirements are enhanced to facilitate the introduction and continued management of SAT. Also responsible for the delivery of a Register of Aggregates Producers in support of compliance with SAT.

4.5 Programme planning is based on a phased approach to delivery, for planned go-live on 1 April 2026, as follows:

- Phase 1: Development of the Business Case (May 2023 – February 2024)
- Phase 2: Design and Development of the Programme (August 2023 – February 2024)
- Phase 3: Implementation (December 2023 - Jan 2026)
- Phase 4: Go Live Events (January 2026 – July 2026)
- Programme Closedown (July 2026 – August 2026)
- Post Programme Benefit Realisation activities (Aug 2026 onwards)

Programme Assurance

4.6 The programme will be subject to external assurance in the form of Gateway Reviews and Digital Assurance activities which will be repeated at appropriate decision-making stages during the lifecycle of the programme. The timing of these reviews will be decided by the SRO after consultation with the Programme Board and CEO.

Stakeholder engagement

4.7 We recognise the importance of stakeholder input as part of an effective and efficient compliance and administration framework. As part of the preparation for the new tax, we have undertaken engagement with relevant bodies such as HMRC, SEPA and COSLA and have been heavily involved in the engagement with industry stakeholders as part of the Scottish Government's Bill development programme.

4.8 Now that the Bill has been introduced to Parliament, we have developed a stakeholder engagement approach. Engagement activity will continue with industry stakeholder groups to gain input on key functions such as registration, the tax return and compliance. Reducing complexity and unnecessary administration burdens are desirable aspects for taxpayers. Therefore HMRC will be a key stakeholder in order to understand established practice and provide a smooth transition from the UK Aggregates Levy to SAT. Engagement will continue beyond the introduction of the tax, as we do on our existing taxes.

Key operational matters

4.9 The UK Aggregates Levy was introduced in 2002 and the tax rules and administrative processes are therefore well understood by UK taxpayers. The Bill provisions are broadly based on the UK Aggregates Levy and there will therefore be some inherent similarities between the two taxes which will aid in Scottish taxpayers' understanding of the operation of SAT. We have well established operational practices however, developed from the introduction of LBTT and SLfT. SAT will therefore be operationalised in a Scottish context. The main considerations are discussed below.

Registration

4.10 Registration is an important element as it will be the first formal interaction that we have with taxpayers and it identifies and provides information on the taxpayer base. We have identified approximately 150 current UK taxpayers who are likely to be required to register for SAT. To ensure a smooth transition for taxpayers moving from the UK Aggregates Levy to SAT, we plan to include an onboarding process prior to the tax going live.

4.11 Industry stakeholders have requested that registration details are published in order to aid in the identification of unregistered persons who are carrying out taxable activity. HMRC already publish a list of registered taxpayers and we are working with industry stakeholders in developing a similar list for use in Scotland.

Tax Return

4.12 The SAT calculation involves a series of exemptions and reliefs that will either remove aggregate from being considered as taxable or will result in a deduction to the tax charge. In order to adequately monitor the use of exemptions and reliefs, we intend to require taxpayers to include details of taxable aggregate and any related exemptions and reliefs for each site that the taxpayer may operate.

4.13 This level of detail is not required for the UK Aggregates Levy return. We will include representative stakeholders as part of the design process to ensure that the information requested as part of the return is reasonable and manageable.

Cross border

4.14 Due to cross border trade, SAT will affect commercially exploited aggregate in other parts of the United Kingdom.

4.15 We are working with stakeholders, the Bill team and HMRC, to identify the different types of cross border arrangements in order to establish the most effective and efficient way to administer the tax in those situations.

PART 2: RSTPA CHANGES

5. Background

5.1 Since our establishment in 2015, we have gained expertise in the practical operation of the devolved taxes legislation. LBTT and SLFT are self-assessed, meaning it is the responsibility of the taxpayer to assess their own liability to tax and report that to us in the form of a tax return. SAT will also be a self-assessed tax.

5.2 The revenues generated by the devolved taxes are paid into the Scottish Consolidated Fund and used to pay for public services delivered in Scotland. It is important to maintain the integrity of the Scottish devolved tax system to support these revenues.

5.3 We maintain that integrity in two ways. Firstly, by supporting our taxpayers to pay the right amount of tax at the right time through our infrastructure and operations, including: SETS, guidance, webinars, opinion service, engagement with taxpayers, the Enhanced Support policy, engagement with stakeholders especially from the industries to which the devolved

taxes apply and principles such as the Charter for Standards and Values [Charter of Values | Revenue Scotland](#). Most of our taxpayers are voluntarily compliant with their tax obligations.

5.4 Secondly, the Parliament enacted a legislative scheme with “teeth” to challenge non-compliance. RSTPA lays out a scheme of penalties for breach of tax obligations and conferred compliance functions. Our compliance teams undertake relationship management work, enquiries, site visits, internal reviews and dispute resolution. Our debt team carries out debt recovery work. If we are in dispute with a taxpayer, we conduct ourselves in accordance with our Settlement and Litigation Principles - [RSTP6001A - Revenue Scotland Settlement and Litigation Principles \(SLP\) | Revenue Scotland](#).

5.5 Since our establishment, we have worked with the Scottish Government to support and implement legislative change in line with the Scottish Government’s policy aims. This has included changes to ADS under LBTT rules; budget rates and band changes; addressing issues identified in relation to daily penalties; Air Departure Tax (latter subject to late policy change); and changes to clarify the law on prescribed landfill tax activities.

5.6 As a service user focussed body, we strive for continuous improvement. In the course of our operations, we encounter aspects of our legislation which might not be operating as intended or we identify areas which would lead to greater efficiency of our operations or for taxpayers accessing our services.

5.7 In our [Revenue Scotland Corporate Plan 2021-2024 Online PDF.pdf | Revenue Scotland](#) we expressed the following relevant to our digital ambitions -

Excelling in Delivery

We offer user-focused services that are digital by design, and provide value for money, convenience and ease of use for internal and external users.

Looking Ahead

We plan and deliver change and new responsibilities flexibly, on time and within budget. We have a digital mindset, maximising the use of our data and harnessing new technology to improve our working practices and services.

5.8 In part these were shaped by our experience during the Covid-19 pandemic. As with so many other bodies and organisations, we had to transform our operations to enable remote working and greater reliance on digital communications and operations.

5.9 The small number of provisions contained in Part 2 of the Bill will, if enacted, assist in greater efficiency and convenience, helping keep our operations up to date with those expected of a modern, digital tax authority.

6. Background

6.1 The proposals in SATB, Part 2 can be usefully discussed in 3 different categories –

- (a) Communications and automation

- (b) Set off
- (c) Clarifications and minor corrections

These proposals are considered individually below.

7. Communications

7.1 Section 54 proposes a power enabling Scottish Ministers, by regulations, to make provision about communications by RS. The power is subject to affirmative procedure which will enable Parliamentary scrutiny for a power which enables amending primary legislation. We stand ready to contribute to any necessary consultation on the proposed exercise of this power.

7.2 At this stage, we see two potential areas where this power could be exercised to improve efficiency and certainty. Firstly, to harness the efficiencies which would ensue from greater use of electronic communications, ensuring these are delivered in a fair, transparent manner and are accessible. Secondly, from an operational perspective, in relation to postal communications.

7.3 Technology is continually evolving and greater reliance is being placed on it. That makes it important for electronic communications to proceed on a firm and transparent footing. To future proof our legislation, we seek the facility for electronic communications in general rather than specifying a particular type of electronic communication, such as email.

7.4 The second area is around communications by post and we welcome from an operational perspective the opportunity to have tax specific provisions around the use of registered, recorded and ordinary post.

8. Automation

8.1 Section 55 would confer on Scottish Ministers a power to make regulations about the use of automation by RS. We understand that this would also be subject to affirmative procedure and stand ready to contribute to any consultation and further consideration of the exercise of this power.

8.2 This power could deliver efficiencies for the taxpayer and the public purse by enabling greater automation of certain routine tasks in a secure way. For instance, certain penalties arise from the fact of a return or payment being late. This will support our Corporate Plan ambitions to be “digital by design” in that it enables staff to undertake timely consideration of the more complex cases.

9. Set off

9.1 Section 56 introduces a power to allow us to set off taxpayer credits (money owed to the taxpayer) against taxpayer debits (money owed to us) in appropriate circumstances.

9.2 Currently, set-off of credits and debits may take place administratively with taxpayer authorisation. Having a statutory power of set off will create greater efficiency.

9.3 The provision would only apply to properly constituted tax credits and debits, meaning

where there is no dispute over either amount. This is consistent with the efficient operation of self-assessed devolved taxes, where taxpayers have told us how much money they are due to pay, and how much money is due back to them.

9.4 The provision will operate to the benefit of the revenue in some cases (allowing funds to be retained in the Scottish Consolidated Fund where the balance is due to the revenue). However, in other cases it will operate to the benefit of taxpayers, in preventing them from having to pay over additional tax and then potentially wait to receive a separate refund from the revenue. It could allow them to have a subsequent tax liability reduced or offset completely.

9.5 We consider this provision to be a reasonable, proportionate and prudent measure which allows a cost-effective, administratively simple approach to offsetting taxpayer credits and debits and thereby protecting funds for the public purse.

10. Clarifications and minor corrections

10.1 Finally, the Bill proposes the following clarifications and minor corrections.

Section 51 – would enact a minor correction (changing an incorrect cross reference from “paragraph” to “section”)

Section 52 – would add to the circumstances in which RS need not give effect to a repayment claim by the taxpayer. The addition is where a taxpayer has failed to pay a different tax to the tax subject to the claim eg where a taxpayer has - say - an SLFT and SAT liability.

Section 53 – a technical correction to ensure to ensure the penalty arises by reference to the date by which an LBTT payment ought to have been made.

Section 57 - would clarify that the acts of one designated officer may be continued by another, including in the context of summary warrants, for instance when the original officer retires.

11. Conclusion

11.1 We look forward to expanding on the above during our session before the Committee.

7 March 2024

Revenue Scotland