Scottish Aggregates Tax Bill Advisory Group – Meeting 4
Friday 5 May 2023, 1000-1230 hrs
St Andrews House, Edinburgh

Note of Meeting

Attendees

- Eric Brown - Chartered Institute of Taxation
- Lauren Darby - British Ceramic Confederation
- Alan Doak - Mineral Products Association Scotland
- Alex Doig - Scottish Government (Chair)
- Jocelyne Fleming - Chartered Institute of Building
- Angus Hamilton - Scottish Environmental Services Association
- Joseph Mankelow - British Geological Survey
- Philip McKay - Convention of Scottish Local Authorities
- Andrew Murdoch - Resource Management Association Scotland
- Paul Pearcy - British Glass
- Kat Quane - Transport Scotland
- Mike Phillips - British Aggregates Association
- Justine Riccomini - Institute of Chartered Accountants of Scotland
- Chantal Robertson - Institute of Chartered Accountants of Scotland
- Martin Robertson - Scottish Environment Protection Agency
- Lucas Scally - Zero Waste Scotland
- Derek Yule - Convention of Scottish Local Authorities

Apologies

- Alan MacKenzie - Mineral Products Association Scotland

Secretariat and Official Support

- Jane Callaghan - Revenue Scotland
- Ewan Cameron-Nielsen - Scottish Government
- John Fotheringham - Scottish Government
- James Lindsay - Revenue Scotland
- John McVey - Revenue Scotland
- Robert Souter - Scottish Government

Summary

The fourth meeting of the Scottish Aggregates Tax Bill Advisory Group discussed the potential to establish a sustainability fund for the Scottish Aggregates Tax (SAT), and the prospective approach of Revenue Scotland to administration of the tax.

1 Welcome and Introduction

1.1 Alex Doig (Deputy Director, Tax and Revenues Directorate, Scottish Government – Chair) welcomed members to the meeting. This was to focus on the potential creation of an SAT sustainability fund, and the approach of Revenue Scotland to SAT registration, management, and compliance.

2 Agreement of Note of Meeting 3

2.1 The Chair invited members' feedback on the draft note: there being no comments it was taken to be agreed. However, it may be amended once the secretariat reviews some comments received. There was a reminder that at the last meeting members had asked that papers be shared further in advance.

3 Potential Sustainability Fund from a Scottish Aggregates Tax

3.1 The Chair invited John Fotheringham, Aggregates Tax Bill Team Leader, Scottish Government, to present the section of the discussion paper on the potential to establish a sustainability fund alongside the SAT. John outlined the historic UK levy fund and how this had operated in Scotland, some similar funds recently or currently in operation, the willingness to explore the case for creating a fund for the SAT, and views shared to date on the latter. It was noted that if there were to be a fund then key provisions would need to be in the Bill, with technical and operational details addressed via secondary legislation in time. It was also noted that those provisions could be permissive, i.e. provide that the Scottish Ministers 'may' create a fund. It was highlighted that there would be a need to ensure that the criteria for an SAT fund were fully aligned with the strategic objectives for the tax.

3.2 Robert Souter, Senior Policy Adviser, Scottish Government, and Martin Robertson, Landfill Tax Officer, Scottish Environment Protection Agency (SEPA), gave an overview of the operation of the Scottish Landfill Communities Fund (SLCF), which is connected to the Scottish Landfill Tax (SLfT), and the role of SEPA in administering the SLCF. The bureaucratic and resourcing challenges for some prospective bidders for funding, especially small community and voluntary groups, were discussed.

3.3 Members then discussed the merits of establishing an SAT fund. Whilst there was some support for having one, and suggestions as to what it could look to support – community and environmental betterment and/or innovation – it was observed that there are a number of similar funds already available. It was also noted that if supporting innovation in the aggregates sector this could be a complex issue to tackle via grant funding.

3.4 The Chair invited views on what drives innovation in the aggregates sector. It was advised that it tends to be the industry itself, and aggregates customers such as utilities firms, as their expertise means they know where potential opportunities lie. It was noted that little innovation stems from the academic community. It was also suggested that a fund could seek to support use of recycled aggregates as often poor uptake of new materials is the real issue, not innovating and developing such materials themselves.

3.5 It was observed that having a sustainability fund could be one of the key features that differentiates the SAT from the current UK levy. However, the competing priorities for such a fund, how much resource it would require to be meaningful, and how it might seek to balance addressing local and national issues, were all noted. The need to consider how a fund could be sustainably resourced to ensure it had a tangible impact, the mechanism for resourcing, and the scope to use a portion of SAT revenues to augment an existing fund, were all noted. Members also noted the need to explore what the implications of having a fund alongside the SAT might mean for future Block Grant Adjustment discussions. Potential bureaucratic issues were highlighted, as were the questions of how a fund might be most efficiently administered and by whom. On the latter, it was noted that learning from SEPA's expertise of running the SLCF could be useful.

3.6 It was observed that a fund could be used to support long-term circular economy and waste reduction aims, which could be particularly helpful for smaller firms. The need to consider the aggregates sector within the bigger strategic picture was noted, along with the need to ensure that a SAT fund was open to as wide a field of prospective bidders as reasonably practicable, as there is a lot of relevant work going on in Scotland and elsewhere in the UK.

3.7 It was also noted that a fund would have to be distinctive, focused on initiatives relating to aggregates, and that using a portion of SAT revenues to resource it would be preferable to a tax credit system. On innovation, it would need to be clear whether the intent was to encourage recycling, or enable initiatives aimed at mitigating the environmental impact of quarrying. What the determining body for the fund would look like, and who would serve on it, would also require further consideration.

3.8 The Chair closed by observing that there is much to consider but it is important to take the time to do so to ensure that an SAT fund, if established, is done well given Ministerial and wider interest.

4 Administration of the Scottish Aggregates Tax

4.1 The Chair invited James Lindsay, Tax Design Lead, Revenue Scotland, to present the section of the discussion paper on the prospective approach to administration, collection, and management of the SAT. The Chair advised that the discussion would focus on strategic provisions that will need to be in the Bill; there would be opportunities to discuss further aspects as work to deliver the tax progresses.

4.2 James advised that the introduction of the SAT will mean there will be two tax jurisdictions within the UK, for the purposes of aggregates, with many businesses likely to be required to register in both. Revenue Scotland will be responsible for administering the SAT and will seek much more detail from those liable to pay the SAT than HM Revenue and Customs (HMRC) presently seek for UK Aggregates Levy purposes. However, given the importance of the tax treatment of cross-border movements to wider administrative aspects, it was agreed that members would first consider again the prospective cross-border approaches discussed at the last meeting.

4.3 James outlined the two prospective approaches to cross-border movements: Source Country Relief (SCR)[1] and Destination Country Relief (DCR)[2], on which the Chair invited members' reflections. It was observed that the additional administrative demands arising from the introduction of the SAT could be complex and demanding for producers, and potentially customers as well. It was acknowledged that extra administration will be an unavoidable consequence and that it would therefore be prudent to allow some grace for adjustment. The need to avoid adopting an approach that could give rise to double taxation was noted, as was the need to ensure that businesses were not left waiting for some time to receive reliefs from tax authorities. The Chair invited members' views on the 'point of payment.' It was noted that this can vary: some customers pay upfront, others on delivery or in arrears. The exact point will depend on the end use of the aggregate, the customer/supplier relationship, and other factors.

4.4 Members discussed some potential cross-border movement scenarios and how the SCR and DCR approaches might work in each case. It was observed that the DCR approach could be said to be more in keeping with the objectives of the SAT, in that it would see materials extracted in Scotland taxed in Scotland. However, the substantial legislative, administrative and preparatory work that would be required to adopt it were noted. Further complexity could arise if the SAT rate were to differ from that of the UK levy, and it was also suggested that a DCR approach could give rise to compliance issues. The scope to harness innovative technologies in tax administration was briefly discussed.

4.5 It was observed that there appeared to be more support for taking the SCR approach. The need to consider in detail what would be needed for a DCR approach to operate effectively, and to be able to explain and communicate this, were acknowledged. It was suggested that it would be helpful to seek views from those likely to be most affected by adopting the DCR approach.

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[1] This would align with the intended approach for UK Aggregates Levy (UKAL). Aggregate produced in Scotland would become taxable at the point of commercial exploitation. However, a tax credit for aggregate would be provided for aggregate moved to rUK. UKAL would then become due if the aggregate was subsequently commercially exploited in the UK.

[2] Aggregate produced in Scotland would become taxable at the point of commercial exploitation and no tax credit would be provided if that aggregate was then exported to rUK. The exported aggregate would then attract UKAL if any further point of commercial exploitation were to occur in rUK, but tax relief would be provided for any SAT already paid.

4.6 The Chair invited members' thoughts on the value of developing examples of cross-border aggregate movements, then setting out how the SCR and DCR approach might work in each case. It was suggested that those developed to help inform the discussion paper for the last meeting be used as a starting point. This suggestion was accepted, with the examples to be shared and further developed with members and representatives from aggregates producers with a direct interest. The Chair observed that this could be helpful in being able to show to Ministers a product that had been collectively created by the group.

4.7 James Lindsay then presented the section of the discussion paper on SAT registration and return arrangements. Both the initial SAT taxpayer registration and quarterly returns will collect more data than those for the UK levy. The rationale for this is twofold: to inform evaluation of SAT policy effectiveness, and to support compliance activities. It was noted that some of the data which it is proposed to collect could be viewed as commercially sensitive: it was advised that such data will not be published. It was observed that there will be a need for Revenue Scotland to produce clear, accessible, and user-focused guidance for taxpayers. The additional complexity and administration that having to register for both SAT and the UK levy may involve was highlighted, as was the potential value of developing a single pan-UK registration portal. Members were invited to share any further reflections they may have on the proposed registration and returns data by correspondence.

4.8 The need for dialogue with HMRC as the SAT is developed and introduced, more so given if there is a substantial divergence from UK levy arrangements, was acknowledged. Members were advised that there are regular discussions with HMRC, and these will continue going forward. The Chair observed that members' discussion had highlighted the value of further developing the evidence base, and of more dialogue with stakeholders, to help ensure that the design of the SAT is as well-informed as practicable.

4.9 It was noted that the Revenue Scotland and Tax Powers Act 2014 (RSTPA) will give Revenue Scotland the powers necessary for them to administer and manage the SAT. However, it was suggested that there may be merit in amending the RSTPA to allow Revenue Scotland to delegate certain SAT functions to other public bodies, such as SEPA. Members were advised that this is under consideration, given SEPA's role in supporting SLfT compliance and in administering the SLCF. The need to ensure that both delegation powers and appropriate legal gateways for data-sharing were in place were noted.

4.10 It was suggested that it may be helpful to establish a forum to discuss issues relating to the SAT once it is introduced. Members discussed the merits of this and how such a forum might work. The need for clear communication and ongoing engagement to raise awareness and develop guidance were noted.

5 Any Other Business

5.1 The Chair invited members to raise any further issues: none were raised. It was advised that the secretariat would share draft cross-border movement examples and invite members to help further develop these as soon as practicable.

6 Closing Remarks

6.1 The Chair thanked members for their contributions and expressed his hope that they will continue to be willing to provide support as the Bill progresses. Options for what format the group might take going forward are being developed and members will be advised further details in due course.