

Breaking New Ground? Developing a Scottish tax to replace the UK Aggregates Levy

Consultation



September 2022

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Ministerial Foreword



Our tax system plays an integral role in funding the public services we all rely on in Scotland. Our Framework for Tax provides the foundation from which we can design and deliver tax policies that support our recovery from Covid-19, national outcomes and our pursuit of a fairer, greener and more prosperous Scotland for everyone. It sets out our vision for tax in Scotland, which is underpinned by policy and delivery excellence, best practice, open government and transparency. This way, we can position tax policy to meet the challenges of today and tomorrow.

Representing another step on that journey, this consultation seeks your views to inform a Bill on a devolved tax to replace the UK Aggregates Levy. When introduced, the tax will increase both the range of tax powers available to Scottish Ministers, and the proportion of Scotland's budget that is raised from Scottish taxes.

The UK Aggregates Levy is an environmental tax that aims to reduce the extraction of primary (i.e. new) aggregate. In general, it applies to the commercial exploitation of primary aggregates – mostly crushed rock, gravel and sand – which are used in housebuilding, infrastructure, landscaping, environmental protection and much more.

The Scotland Act 2016 provides the Scottish Parliament with the power to introduce a devolved tax to replace the UK levy. The Scottish Government intends that such a devolved tax will align with our overall ambitions for sustainable economic growth in Scotland, and support our circular economy strategy and objectives.

While the extraction and production of aggregates creates and support jobs, many in remote and rural communities, the extraction of primary aggregates in particular can also create a negative environmental impact. As set out in our recently published draft Waste Route Map, we seek to embed circular construction practices to reduce resource needs, reduce waste and carbon, and encourage refurbishment and reuse. This devolved tax will form part of our approach to achieving that.

To help inform our next steps, we are seeking views on how a new and distinctive Scottish aggregates tax, replacing the UK levy, should be structured and operate. We will take current UK levy arrangements into account but wish to consider the case for enhancements that will ensure that the tax is well-designed, takes full account of the Scottish context and maximises opportunities offered by devolution.

We are keen that the tax is developed collaboratively with stakeholders and in line with the Scottish Approach to Taxation, as set out in our Framework for Tax. We would like to hear from as wide a variety of individuals and organisations as possible, particularly those involved with the aggregates business, construction and infrastructure, environmental, tax, accountancy and legal sectors. We also intend to organise events to discuss relevant issues with stakeholders.

I hope you find this document interesting and useful, and would welcome your input and support as we progress the development of a Scottish aggregates tax.

A handwritten signature in black ink, appearing to read 'Tom Arthur', written in a cursive style.

Tom Arthur MSP
Minister for Public Finance, Planning and Community Wealth

Introduction

Scottish Approach to Taxation

The Scottish Government's approach to tax policy has developed over time, particularly following the devolution of further tax powers in 2016. In December 2021, the Scottish Government published Scotland's first [Framework for Tax](#), which sets out the principles and strategic objectives that underpin the Scottish Approach to Taxation, as well as our approach to decision making, engagement and how we manage and sequence tax policy and delivery.

Our approach continues to be underpinned by the four canons of taxation proposed by the renowned Scottish economist Adam Smith. These are Certainty, Proportionality to the ability to pay, Convenience and Efficiency. We have added two further principles to reflect our commitment to engaging and collaborating with stakeholders, and to reflect our approach to tackling tax avoidance.



Figure 1 – Scottish Approach to Taxation

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

In carrying out this consultation and future work to develop the arrangements for a devolved aggregates tax, we will take full account of the principles and objectives set out in the Framework.

Developing a devolved aggregates tax

The [Scotland Act 2016](#) provides the Scottish Parliament with the power to introduce a devolved tax on the commercial exploitation of aggregates in Scotland, to replace the [UK Aggregates Levy](#). This followed the [Smith Commission](#), which recommended that the power to implement such a tax be devolved once litigation then underway in relation to the UK levy had been resolved. This was [confirmed in early 2019](#).

The UK levy applies, in general terms, to the commercial exploitation of primary aggregates – in essence, crushed rock, gravel and sand – which are used for bulk fill in construction related activities. It has been in place since 2002 and was recently reviewed by the UK Government.

The [UK Government review](#), and the process of consultation associated with it, has assisted the Scottish Government's understanding of the arrangements for the UK levy, the underpinning rationale for key elements of the tax, and the views of the industry in Scotland on devolution.

With the litigation mentioned above now resolved, this consultation seeks views on how a Scottish replacement to the UK levy should be structured and operate. Responses to this consultation and associated engagement will support the development of a Bill that will set out the key arrangements for a devolved tax.

This will be a distinctive Scottish tax, including in terms of arrangements for its collection and management by [Revenue Scotland](#). Throughout this consultation, and to provide context for readers, key arrangements for the current UK levy are cited, and views sought as to the case for how these could be adopted for a devolved tax.

However, whilst we will take these into account, we wish to consider and explore the case for any changes, refinements or enhancements that are consistent with the provisions of the Scotland Act 2016. This aims to ensure that a future tax is well-designed, takes full account of the Scottish context and maximises the opportunities offered by devolution, including how the tax is administered. In particular, we want to ensure that a future tax is aligned with the Scottish Government's ambitions for the [circular economy](#), and takes full account of the Scottish Approach to Taxation.

We want to hear from as wide a variety of individuals and organisations as possible, in particular but not limited to those involved or with an interest in the aggregates business, construction and infrastructure, environmental, tax accountancy and legal sectors. We have included questions throughout this consultation document. A full question list is provided in Part D, as well as details on how to respond.

In addition to welcoming responses to this consultation, the Scottish Government will also seek to engage with key stakeholders and those with broader interests in the topic. Revenue Scotland will be involved in its role as Scotland's tax authority, but may also engage directly with potential taxpayers. This engagement will form an essential element of the Scottish Government's approach to both the primary and secondary legislation required to introduce a new tax, providing an opportunity to focus in detail on key aspects of this consultation.

Consultation Structure

This consultation document comprises four parts.

Part A – Strategic Context and Tax Structure – considers:

- The context for a devolved tax, including the Scottish Government’s ambitions to support a more circular economy (Chapter 1)
- The scope of a tax: the definition of “aggregate” and “commercial exploitation” (Chapter 2)
- The availability of exemptions and reliefs (Chapter 3)
- The arrangements for future tax rates (Chapter 4)
- The potential for an aggregates sustainability fund (Chapter 5)

Part B – Operational Considerations – considers:

- Registration (Chapter 6)
- The making of tax returns and payments (Chapter 7)
- Tax compliance (Chapter 8)
- Tax avoidance and evasion (Chapter 9)
- Penalties (Chapter 10)
- Dispute resolution, reviews and appeals (Chapter 11)

Part C – Potential Impact – considers relevant impact assessments that are being or may be prepared as part of the process to develop a Bill providing for the tax:

- Impact Assessments (Chapter 12)
 - Business and Regulation
 - Children’s Rights and Wellbeing
 - Environment
 - Equality
 - Fairer Scotland Duty
 - Island Communities

Part D – Reference and Response – includes background information that may be helpful, a full list of consultation questions, and details of how to submit a response:

- Glossary of Terms
- UK Aggregates Levy: Reliefs for Industrial, Agricultural and Exempt Processes
- Question List
- Responding to this Consultation

Next Steps

The Scottish Government's Framework for Tax sets out five key stages related to the development of tax policy.

- Stage 1: Engagement and Analysis
- Stage 2: Policy design
- Stage 3: Decision making
- Stage 4: Implementation
- Stage 5: Evaluation

This consultation marks the progression of stage one, with previous and ongoing evaluation of evidence and feedback helping to reach this point.

Responses to this consultation and the associated programme of engagement will support the development of a future Bill that provides for a devolved tax. This will be introduced during the current session of the Scottish Parliament. Further details on the Bill proposal and progression process can be found on the [Scottish Parliament website](#).

The Scottish Government expects that the Bill will set out the key provisions of the tax, such as scope, definitions, liability to pay, administration and so on.

As with other fully devolved national taxes in Scotland, in addition to an Act of the Scottish Parliament, secondary legislation will also be required before any tax could be formally introduced. This legislation may take the form of Scottish Statutory Instruments to set the rate or rates for the tax, exemptions and reliefs and so on.

Part A

Strategic Context and Tax Structure

This sets out the context for a devolved tax, proposed scope and definitions, potential exemptions and reliefs, and possible approaches to rates.

Reflecting in part the rationale for the tax, it concludes by inviting views on the possibility of developing a sustainability fund.



Chapter 1:

The Context for a Devolved Aggregates Tax

The aggregates sector in Scotland

1.1 Aggregates make an important contribution to Scotland's economy, providing materials for housing, construction, road-building and other uses, and supporting employment, including in rural and remote areas of the country. Aggregates are also required as construction materials to support the ambitions for the environment, including for diversification of the energy mix. They are used both in and of themselves and mixed with other materials to produce new products used in construction such as mortar, tarmac and concrete.

1.2 Aggregates are sourced across most of Scotland. Operating quarries which produce crushed rock, or quarries and wharves where sand or gravel is extracted or landed, are found in nearly all 32 local authority areas. Crushed rock is produced predominantly in the north of Scotland and along the west coast, whereas sand and gravel are likely to be extracted in southerly areas.

1.3 The British Geological Survey (BGS) [UK Minerals Yearbook 2021](#) estimates that Scotland produced 4.8 million tonnes of sand and gravel and 19.1 million tonnes of crushed rock in 2020. These figures are slightly less than those for the previous few years, most likely due to the impact of the Covid-19 pandemic.

1.4 These materials are generally referred to as virgin, primary or naturally occurring aggregates, which are being used as aggregates for the first time. Throughout this consultation, they will be referred to as primary aggregates.

1.5 Although the currently available data indicates that most aggregates produced in Scotland are retained within the region of their extraction, an [evidence review](#) conducted by Eunomia for the Scottish Government suggests that around 30-40% of crushed rock produced in Scotland is exported to the rest of the UK and further afield. This is predominantly but not exclusively transported from Glensanda on the Morven Peninsula of the west coast of Scotland. By contrast, only a small amount of crushed rock, sand and gravel is imported.

1.6 The Scottish Government has commissioned the BGS to complete a survey of Scottish aggregate production based on 2019 data. The report from the survey – which will provide important national and regional level data about the production, sales, reserves, and transportation of aggregates in Scotland – is due to be published in autumn 2022. This will complement a similar UK Government commissioned survey undertaken for the rest of the UK, the [collated results](#) report of which was published in 2021.

1.7 In addition to primary aggregates, secondary and recycled aggregates also contribute to the available supply of aggregates in Scotland.

1.8 Secondary aggregates arise as a by-product of other quarrying and mining operations, such as china clay waste, slate waste and spoil from collieries, or material which arises as unavoidable consequence of construction works.

1.9 Recycled aggregates result from the processing of inorganic materials previously used in construction. This is also known as construction and demolition (C&D) waste.

1.10 The research by Eunomia referred to above estimated that in 2017 the recycling rate of relevant construction and demolition waste was around 87%. The research also showed that C&D related aggregates waste generation was forecast to grow from 1.2 million tonnes in 2017 to 1.28 million tonnes in 2030. Based on the current recycling rate of C&D waste the supply of recycled aggregates may grow from 1.05 million tonnes in 2017 to 1.12 million tonnes in 2030. However, these figures reflect circumstances then, and may not reflect the impacts of Covid-19.

QUESTIONS

A1 – Are there any aspects of the aggregates sector in Scotland to which the Scottish Government should give particular consideration in developing proposals for a tax?

Strategic context for a devolved tax

1.11 As set out in the Introduction, the UK Aggregates Levy currently applies in Scotland, and there are a number of businesses currently registered for this. It is paid mainly, but not exclusively, by quarrying and sand and gravel extraction businesses.

1.12 In general, the levy applies to the commercial exploitation of primary aggregates – in essence, crushed rock, gravel and sand – where it is used for bulk fill in construction. Recycled aggregates, produced by reprocessing material already used in construction, are excluded from the scope of the tax to encourage the use rather than disposal of these materials. Similarly, there are exemptions for various categories of secondary aggregate that use by-products of other industrial processes. These arrangements are considered in more detail in Chapters 3 and 4 of this consultation.

1.13 When introduced, a devolved tax will replace the UK levy in Scotland. The provisional date for introducing the new Scottish tax is 1 April 2025.

Financial context

1.14 In designing the arrangements for a devolved tax, the Scottish Government will carefully consider the potential impact of revenues on the overall Scottish Budget position and the level of funding available to support vital public services. We will take into account the taxation arrangements in other parts of the UK and the Scottish [Fiscal Framework](#) implications, outlined below in 1.16.

1.15 Whilst it should not be taken as a guide to the potential revenue impact of a devolved tax, the illustrative [forecast](#) produced by the Scottish Fiscal Commission estimates that the 2022/23 Scottish share of revenue from the UK Aggregates Levy is £59 million. Based on data from the BGS UK Minerals Yearbook 2021,

HM Revenue and Customs (HMRC) estimate that around 15% of levy receipts in recent years can be apportioned to Scotland, though this will not take into account the potential impact of devolution on the treatment of exports from Scotland to other parts of the UK.

1.16 At the time that the new tax is introduced, there will be a corresponding reduction of the Block Grant (called a Block Grant Adjustment (BGA)), to reflect the devolved power and resultant revenues foregone by the UK Government, which is consistent with the Fiscal Framework agreement between the Scottish and UK governments. This agreement determines how the Scottish Government is funded and underpins the powers set out in the Scotland Act 2016. The funding model agreed intends to deliver a fair and transparent mechanism for adjusting the block grant to reflect the introduction of devolved tax raising powers and the transfer of responsibility for social security expenditure to the Scottish Government. BGAs are separately indexed each year and applied to the overall Scottish Block Grant. The Fiscal Framework will shortly be subject to an independent report on the BGA arrangements, followed by a joint review by the Scottish and UK governments.

1.17 The Fiscal Framework arrangements relating to the tax will be agreed by the Scottish and UK Governments, prior to introduction.

Supporting a circular economy

1.18 In policy terms, the Scottish Government will place particular importance on considering how this future tax aligns with our overall ambitions for sustainable economic growth and our transition to a circular economy.

1.19 As recognised in our [National Strategy for Economic Transformation](#), Scotland has a unique opportunity over the next ten years to increase our economic and social wellbeing, whilst respecting environmental limits and becoming one of the most prosperous nations in the world.

1.20 Our ambitions for the circular economy are key in this regard. As set out in our recent [consultation on proposals for a Circular Economy Bill](#), the circular economy provides an opportunity to minimise our demand on primary resources and maximising the re-use, recycling and recovery of resources, rather than treating them as waste. Our [Waste Route Map](#) consultation recognised that the Scottish Government will need to work closely with industry to identify barriers to change, drive innovation, and accelerate adoption of best practice in order to achieve our objectives.

1.21 Recognising the environmental impacts associated with the use of new materials, we intend that a devolved tax will support those goals and continue to encourage a shift in demand from primary aggregate towards recycled aggregate, wastes and other by-products. We also want to encourage innovation and the development of new products which might substitute for aggregates in future and help to support this shift.

1.22 This is reflected in the consultation on our Waste Route Map to achieving our ambitious waste and recycling targets to 2025 and beyond. This sets out actions under way and proposes new actions to embed circular construction practices to

reduce resource needs, reduce waste and carbon, and encourage refurbishment and reuse. The proposed actions explicitly recognise the potential role that a future aggregates tax, alongside the [Scottish Landfill Tax](#) and a wider package of measures, might play in embedding circular construction practices.

1.23 We acknowledge the progress that aggregates producers and the construction industry have already made in developing circular economy practices. However, it will be important to ensure that we continue to encourage this and embrace opportunities to do more.

1.24 This will also be supported by our approach on planning. Our [Draft Fourth National Planning Framework](#) (NPF4), sets out policies which guide our planning system, helping to ensure we can make best use of our mineral assets. Through the framework, we are updating our planning policies to protect mineral assets, local communities and to recognise the opportunities that can arise from the shift towards a circular economy. Planning can support development which better reflects the waste hierarchy, prioritising the reuse of materials, and facilitating the infrastructure we need to make this possible. We are pleased with the wide interest shown from across society on our draft NPF4 and will carefully consider the broad range of views shared with us before finalising NPF4 for Scottish Parliament approval.

Collection and management

1.25 In addition to policy considerations, the introduction of a devolved tax also presents an opportunity to refine and enhance the collection and management and arrangements for the tax.

1.26 [Revenue Scotland](#) was established as a Non-Ministerial Office on 1 January 2015 and is the tax authority responsible for the collection and management of Scotland's devolved taxes – Land and Buildings Transaction Tax and Scottish Landfill Tax. These came into effect on 1 April 2015, replacing their UK equivalents – Stamp Duty Land Tax and UK Landfill Tax respectively. Collection and management of tax is carried out in accordance with legislation passed by the Scottish Parliament and the four founding principles underpinning the Scottish Approach to Taxation.

1.27 The [Revenue Scotland and Tax Powers Act 2014](#) sets out the legislative basis for some of the expectations about the relationship between the taxpayer and the tax authority, and provides for a Charter of Standards and Values. This charter sets out the behaviour expected from all organisations and individuals to achieve this. It applies equally to taxpayers, agents and representatives as it does to Revenue Scotland and partner organisations, the [Scottish Environment Protection Agency](#) and [Registers of Scotland](#), when they are acting on behalf of Revenue Scotland.

1.28 Revenue Scotland will be the tax authority responsible for the management and collection of the new devolved aggregates tax. This would build on its experience in collecting and managing the existing fully devolved taxes, and ensure we harness the outputs of their work in areas such as data and digitalisation, modernisation and continuous improvement, and more. The potential collection and management arrangements for the devolved tax are considered in more detail in Part B of this consultation.

QUESTIONS

A2 – Do you consider that a devolved tax has the potential to support Scotland’s overall circular economy ambitions? Please provide commentary for your views.

A3 – What other considerations should Scottish Government take into account in terms of the rationale for a tax on the commercial exploitation of aggregates?

Chapter 2:

The Scope Of The Tax – Defining “Aggregate” And “Commercial Exploitation”

2.1 The Scotland Act 2016 provides that the devolved tax is to be charged on: (i) aggregate; (ii) when it is subject to commercial exploitation in Scotland.

2.2 In addition, the Scotland Act 2016 provides that the tax cannot be charged when the aggregate is commercially exploited for fuel.

2.3 As set out in Chapter 1, the Scottish Government intends that a devolved tax should support our ambitions on the circular economy, recognising both the environmental and economic benefits of reducing the level of primary aggregate extracted in Scotland, and encouraging the maximum possible use of existing and future alternatives in the construction sector.

2.4 This will have relevance for the scope of the tax, our approach in defining “aggregate” and “commercial exploitation”, and to the exemptions and reliefs which are set out in a future Bill.

Definition of “Aggregate”

2.5 There is no single comprehensive and widely agreed definition of “aggregate”. However, for the purposes of the UK levy, it is defined in section 17 of Part 2 of the [Finance Act 2001](#) as:

➤ *“Any rock, gravel or sand, together with whatever substances are for the time being incorporated in the rock, gravel or sand or naturally occur mixed with it.”*

2.6 This is a broad definition, which potentially brings a wide range of materials and products into scope. As the UK levy is intended primarily to tax new rock, sand and gravel that is used as bulk fill in construction, the UK legislation provides for a series of exclusions, exemptions and reliefs. We understand that the purpose of these is to ensure that only the targeted materials, or uses of those materials, are taxed. This is considered in detail in Chapter 3.

2.7 The Scottish Government recognises the advantages of having a consistent approach across the UK and would accordingly welcome views on the case for adopting the Finance Act 2001 definition of “aggregate” in a future Bill.

2.8 However, taking account of our Framework for Tax and our commitment to the principles of certainty, efficiency and effectiveness, we would welcome suggestions for alternative definitions – in particular any that would assist with simplification and reduce the need for exemptions and/or reliefs.

QUESTIONS

A4 – In keeping with our Framework for Tax and ambitions for a circular economy, what options should the Scottish Government consider in terms of defining “aggregate” for the purposes of a tax and on what basis?

Do your views on this have a bearing on the Scottish Government’s consideration of reliefs and exemptions? If so, please provide further details.

Definition of “Commercial Exploitation”

2.9 For UK levy purposes, section 48(3) of Part 2 of the Finance Act 2001 sets out that primary aggregate can be “won” (i.e. obtained):

- *“(a) by quarrying, dredging, mining or collecting it from any land or area of the seabed; or*
- *(b) by separating it in any other manner from any land or area of the seabed in which it is comprised”*

2.10 For the UK levy, the act of “winning” the aggregate is not in and of itself considered to represent commercial exploitation. Instead, regardless of how it is won, the Finance Act 2001 sets out that the commercial exploitation of aggregate is considered to have occurred when:

- *“it is subjected to exploitation in the course or furtherance of a business carried on by the person, or one of the persons, responsible for subjecting it to exploitation”*

2.11 There are four key ways in which exploitation can occur, with tax triggered by whichever of these occurs first. These are summarised below:

- Aggregate is removed from: its originating site; a connected site which is registered under the same name as the originating site; a site where it had been intended to apply an exempt process to it, but this process was not applied.
- Aggregate is subject to an agreement to supply, when for example a contract is made, or the goods change hands and a document is raised.
- Aggregate is used for ‘construction purposes’. This is defined as being: used as material or support in the construction or improvement of any structure; or mixed with anything as part of a process of producing mortar, concrete, tarmacadam, coated roadstone or any similar construction material.
- Aggregate is mixed with anything other than water, including for example when used to make concrete, mixed with levy-paid aggregate or mixed with non-taxable material.

Exceptions

2.12 There are however also a number of exceptions, as summarised below. For the UK levy, aggregate is not taxable if it:

- is moved between sites under the same registration;
- is removed to a registered site to have an exempt process applied to it;
- is removed to any premises where china clay or ball clay will be extracted from the aggregate;
- has previously been used for construction purposes (recycled aggregate);
- is being returned to the land at the site from which it was won provided that it is not mixed with any material other than water, for a purpose connected with winning aggregate or other minerals from the site*;
- is won by an agricultural or forestry business from its own site and used in an unmixed state for the purpose of that business, on that same site or on land occupied with that site.

*presuming the draft legislation relating to the Finance Bill 2022-23 is passed by the UK Parliament; this is outlined below at 3.10.

2.13 We would welcome views on the case for adopting these definitions, and exceptions, for a Scottish tax.

2.14 Further commentary and questions on a number of these issues, in particular the appropriate tax treatment in a devolved levy of recycled aggregate, exempt processes, and china/ball clay, can be found in Chapter 3.

2.15 As a particular issue, and without prejudice to any final decisions on the definition of commercial exploitation, the Scottish and UK Governments will require to work together to consider the appropriate arrangements where aggregate is moved from a site in Scotland to a site in the rest of the UK and, under current arrangements, commercial exploitation would not be deemed to have occurred (and vice versa). This is separate to consideration of the treatment of exports and imports from and to Scotland, as discussed below and in Chapter 3.

QUESTIONS

A5 – Do the UK levy definitions of “commercial exploitation” as set out above cover all relevant circumstances in which this could be deemed to occur in Scotland?

Please provide commentary for your views, including to outline any alternative or additional examples of “commercial exploitation” which you think should be covered in a future tax.

A6 – For any examples of commercial exploitation, should there be any exceptions in a devolved tax? If so, on what basis would these be appropriate?

A7 – Subject to your views on the circumstances in which commercial exploitation occurs, are there any specific exemptions which should be legislated for, and on what basis?

A8 – How should the Scottish Government treat movements of aggregates between Scotland and the rest of the UK in situations where commercial exploitation would not currently be considered to have occurred?

Treatment of imports

2.16 For the UK levy, imported aggregate is treated in the same way as aggregate originating in the UK, with the exception that there is no UK originating site.

2.17 As such, the levy becomes due when aggregates are commercially exploited in the UK, in line with the above criteria.

2.18 At the point that a devolved tax is introduced, the provisions of [Schedule 1 of the Scotland Act 2016](#) explicitly provide for circumstances where aggregates flow across two tax jurisdictions within the UK. This will have implications both for the UK levy and a future Scottish tax.

2.19 Commenting on the implications of the Scotland Act 2016 provisions, the review of the UK levy noted that:

- *“Under the legislation, once the provision has been commenced, movements of aggregate from the rest of the UK to Scotland would be relieved from the Aggregates Levy, while movements from Scotland into the rest of the UK would become subject to the Aggregates Levy on the same basis as imports.”*

2.20 Taking account of this and the circular economy context for the tax, the Scottish Government considers that it will be essential to tax “imports” of aggregates to Scotland, on the same basis as currently applies for the UK levy.

QUESTIONS

A9 – Do you agree that the Scottish Government should treat imports in the same way as currently applies for the UK levy, taking account of the Scotland Act 2016 provisions?

A10 – What measures might help to ensure that imports of aggregates are identified and taxed appropriately? Please provide supporting commentary.

Chapter 3:

Exemptions and Reliefs

3.1 The Bill will be expected to set out, to the extent that they are considered appropriate and necessary, various exemptions and reliefs for a devolved tax.

3.2 Although their effect can in essence be the same, there are important distinctions between an exemption and a relief. In general, the availability of an exemption means that tax is not due in the first instance. By contrast, the availability of a relief means that tax which would otherwise be due does not need to be paid or can be reclaimed.

3.3 As set out in our Framework for Tax, policy appraisal ensures existing tax policies and new proposals are balanced, coherent and deliver against objectives. Our goal is to ensure decisions are based on the best evidence available and taken in the round. Amongst the key factors we take into account are affordability and value for money, particularly if tax reliefs or exemptions are being considered given that these will reduce the amount of revenue that can be collected.

3.4 Consideration of potential exemptions and reliefs is linked to the rationale for a tax and the definitions used for both aggregate and commercial exploitation. As such, and taking account of the arrangements for the UK levy, this is recognised as an area with the potential for significant complexity, which the Scottish Government expects to be a key focus of the consultation process.

3.5 Part B of this consultation seeks views on the key elements of the tax administration structure which should apply with regard to any available exemptions or reliefs.

Exemptions

3.6 The current UK levy legislation includes a large number of exemptions, which relate in broad terms to: (i) types of aggregate; (ii) the circumstances in which aggregate is “won” and (iii) the processes to which aggregates are subject. In addition, exports of aggregate from the UK are currently exempt from the UK levy. As discussed below, the provisions in the Scotland Act 2016 create a potential risk of double taxation in this regard.

3.7 Commenting on the number of exemptions, the [Office of Tax Simplification](#) questioned whether the tax might better be based on defining what is caught rather than what is excluded. It was however recognised that this may be difficult in practice.

3.8 Some of the existing exemptions are also recognised as having been contentious and subject to long running legal challenge regarding the possibility that they constituted unlawful state aid. In particular, there have been disputes about the potential for some exempted primary materials to be used as aggregates instead of materials which are taxed. These proceedings resulted in the removal of an

exemption for shale used in construction in 2015, but no other changes. The UK Government has confirmed that there is no ongoing litigation in the European General Court.

3.9 The Scottish Government will consider this background context carefully in deciding on an approach to the provision of exemptions and reliefs.

3.10 We also recognise that the UK Government has proposed changes to address the concerns raised by stakeholders during the recent UK Aggregates Levy review about aspects of the treatment of aggregate removed during construction works. At the time of writing, draft legislation produced by the UK Government for Finance Bill 2022-23 sets out [proposed changes](#) which will in general: (i) restrict the existing exemption for unmixed aggregate returned to the land at its original site so that it will only apply when the return is for a purpose connected with winning aggregate or other minerals; and (ii) consolidate (and therefore replace) four existing exemptions for unavoidable by-product from specific types of construction into a single exemption.

3.11 We will engage with the UK Government in developing proposals for a Bill so as to consider the potential relevance of these proposed changes for a devolved tax. Views on these issues are however also sought in responses to this consultation.

Treatment of recycled aggregates

3.12 In line with the Scottish Government's circular economy goals, our intention is to provide an exemption from the devolved tax if aggregate has previously been used for construction purposes. Alongside the arrangements in place for Scottish Landfill Tax, this will help to ensure that they continue to be recognised as a valuable resource and re-used as much as possible.

QUESTIONS

A11 – Do you agree that recycled aggregate should be exempted from a devolved tax? Please set out commentary on your views.

Other types of exempt aggregates

3.13 In addition to recycled aggregates, we wish to consider whether there is a case for exempting other aggregates from a devolved tax.

3.14 The UK levy includes a number of exemptions which are intended to encourage the use of the relevant material as secondary aggregates where possible, as an alternative to primary aggregate. This is to reflect the UK position that the levy is intended to tax only materials that are extracted for use as bulk fill in construction.

3.15 More specifically, any material, more than half of which consists of the following substances listed below, is currently exempted from the UK levy.

- Clay, soil, vegetable or other organic matter

- Coal, lignite and slate
- Waste or by-products from an industrial combustion process or the smelting or refining of metal – such as industrial slag, pulverised fuel ash and used foundry sand
- Drill cuttings from oil exploration in UK waters and land drilling in the UK licensed under statutory powers

3.16 In addition, anything that consists completely of the following substances is exempt from the levy.

- China clay waste and ball clay waste (not including the overburden*)
- Processing waste resulting from the separation of coal, lignite or slate from other aggregate after extraction (but not any other aggregate which was extracted at the same time)
- Spoil from processing after extraction of industrial minerals*

*please refer to the Glossary of Terms for definitions

Exemptions for circumstances in which an aggregate is “won”

3.17 The UK Government’s draft legislation outlined at 3.10 aims to amend the exemptions available in relation to ways in which an aggregate is won. The resulting exemptions are as follows:

- Aggregate necessarily arising from navigation dredging, if dredged exclusively for the purpose of creating, restoring, improving or maintaining that watercourse.
- Unavoidable aggregate resulting from the construction or improvement, of any proposed structure or any infrastructure relating to transportation or utilities.

Exempt processes

3.18 In addition, the UK levy legislation also provides that the intended products arising from an ‘exempt process’ are not liable to the levy. These processes are:

- creating dimension stone, building stone, or any other type of flat stone, by intentionally cutting or otherwise shaping stone to produce one or more flat surfaces. Dimension stone is natural stone or rock that has been selected and finished (e.g., trimmed, cut, drilled, ground, or other) to specific sizes or shapes.
- The extraction of certain industrial minerals, such as: ball and china clay; potash; sodium chloride; producing lime or cement from limestone, or from limestone and anything else, including shale; and using shale for a purpose other than construction purposes.

3.19 These exemptions do not however apply in relation to the spoil, waste, off-cuts and other by-products resulting from the application of that exempt process. These are taxable, unless the material is processing waste from the extraction of industrial minerals, which is separately exempt.

QUESTIONS

A12 – Which exemptions do you consider would be required, and in keeping with the proposed scope of the Scottish replacement tax, and on what basis?

A13 – Are any exceptions to these exemptions required, and on what basis?

A14 – Aside from reducing the number of exemptions currently available in the UK levy, are there opportunities for the Scottish Government to simplify arrangements for exemptions in a devolved tax? Please set out commentary for your answer.

Reliefs

3.20 In addition to exemptions, in relation to which tax is not due, the UK levy legislation provides that a relief of the levy can be claimed under certain circumstances after it has become due. In general, these reliefs are intended to ensure that tax is not paid where aggregate is not used as bulk fill in construction.

3.21 This is a credit or repayment which only the person who commercially exploited the aggregate and accounted for the levy can claim.

3.22 Full lists of the considerable number of reliefs for industrial, agricultural and exempt processes provided for in the UK levy are set out in Part D of this consultation.

3.23 In summary, they can be divided into four broad categories:

- **Aggregates used in a prescribed industrial process**, such as
 - manufacturing metals, glass, plastics, fertiliser and pesticides
 - treating drinking water, oil, air or sewage
- **Aggregates used in a prescribed agricultural process**, such as
 - the manufacture of animal feeds or animal bedding material
 - adding to soil or growing media
- **Aggregates used in an exempt process after the levy has been brought to account**, such as
 - Creating any type of flat stone, producing lime or cement from limestone
 - extracting or separating certain industrial minerals from other aggregate
- **Aggregates disposed of or dumped by**
 - returning it, unprocessed to its originating site or a connected site
 - removing it to landfill
 - using it for beach replenishment

QUESTIONS

A15 – What reliefs do you consider would be required under a Scottish tax, and on what basis? Would the reliefs in place for the UK levy be appropriate? If so, why?

A16 – In what circumstances should the Scottish Government consider a relief rather than an exemption from the tax?

Addressing the risk of double taxation: Tax treatment of exports

3.24 The Scottish Government intends to give careful consideration to the tax treatment of exports from Scotland, in particular given the potential risk of double taxation.

3.25 At present, aggregate is fully relieved from the UK levy if it is exported from the UK in the form of aggregate, although the aggregate content of processed products is not relieved if it is exported from the UK.

3.26 As noted earlier in this consultation, at the point that a devolved tax is introduced, the provisions of [Schedule 1 of the Scotland Act 2016](#) explicitly provide that movements from Scotland into the rest of the UK would become subject to the UK Aggregates Levy on the same basis as imports. This means that the UK levy would apply at the subsequent point of commercial exploitation.

3.27 On this basis, were the Scottish Government not to exempt exports, this would result in double taxation where that aggregate is then commercially exploited in the rest of the UK.

3.28 Notwithstanding this significant issue, the Scottish Government would welcome views on the justification or otherwise for exempting exports from Scotland from a future tax. Any proposals should take into account the taxation arrangements elsewhere in the UK. The Scottish Government will be discussing this matter with the UK Government during the consultation period.

QUESTIONS

A17 – How should the Scottish Government approach the taxation of exports from Scotland in a future tax?

A18 – Are there alternatives to an exemption which could be considered, but which may require accompanying amendments to current UK levy provisions?

Chapter 4:

Tax Rates

4.1 The Bill providing for a future tax will include enabling powers for Ministers to set rates of tax through secondary legislation.

4.2 The Scottish Government will not however set out its intentions with regard to tax rates at this stage, or include a rate on the face of the Bill. As with other fully devolved taxes, rates will be set through secondary legislation prior to the introduction of the tax depending on a range of factors, including economic and environmental considerations.

4.3 We are however, interested in views on what factors should be taken into consideration when setting a rate for the tax, and on the options and processes that should apply.

4.4 We are also interested in views on whether a Bill should provide Ministers with the flexibility to introduce more than one rate of tax, so as to allow for differential charging in future to take account of different circumstances and impacts.

4.5 As context, for the UK levy tax is chargeable by weight, with a single flat rate applied to all taxable material regardless of quality, source or end use. Following inflation based increases this rate increased from £1.60 per tonne in 2002 to £2 per tonne in 2009. However, although the UK Government's stated policy intention is for the rate to increase annually, it has remained frozen since 2009. If adjusted for inflation since then, the rate would now be about £2.65-£2.70 per tonne.

QUESTIONS

A19 – Which factors should be taken into consideration when setting any rate for the tax, including through the annual Scottish Budget process?

A20 – Would it be appropriate for the Scottish Government to include powers in a Bill to legislate for more than one rate of tax? If so, on what basis?

Chapter 5: A Sustainability Fund?

5.1 As set out above, it is intended that the devolved tax will align with our ambitions for sustainable economic growth and support our circular economy strategy and objectives. A number of funding initiatives have been, are or will be in place to support these, such as the [Circular Economy Investment Fund](#), [Scottish Landfill Communities Fund](#) and [Sustainable Communities Fund](#), to name just a few. More are outlined in our recent circular economy and waste route map consultations.

5.2 Set against this landscape, the Scottish Government would welcome views on the case for establishing an aggregates sustainability fund at the time that the devolved tax is introduced.

5.3 Such a fund would not be a new concept. Alongside the UK levy, an Aggregates Levy Sustainability Fund (ALSF) was introduced in 2002, funded by a proportion – some 10% – of UK levy revenues, which were retained centrally.

5.4 The initial objectives of the ALSF were to minimise demand for new aggregates, promote environmentally friendly extraction and transportation, and reduce the local effects of extraction. These were later expanded to include addressing the environmental impacts of past extraction and compensating local communities for the impacts of this.

5.5 The value of the ALSF varied but was set at £29.3m in England in 2002-03 and 2003-04. In England, funds were distributed through a range of organisations including the Countryside Agency, English Heritage, English Nature, WRAP and various innovation and research programmes.

5.6 Following a spending review the ALSF was discontinued in England in 2011. The fund was discontinued in Wales in 2017, with the Welsh Government citing difficult spending decisions against a background of competing strategic priorities.

5.7 In Scotland, the Aggregates Levy Community Environmental Renewal Scheme (CERS) ran from 2002 to 2008. Through this, the Scottish Government supported 332 environmental projects in communities across Scotland in the vicinity of existing or disused quarries, with some of these projects receiving further funding from other sources. The CERS was later replaced by the Climate Challenge Fund, which provided a comparatively higher level of resources for community initiatives.

5.8 If it were to be taken forward, operational and related aspects would be the subject of further consultation. However, at this stage the Scottish Government would welcome initial views on the case for a fund, on the type of projects it might fund and on how this might align with other circular economy and environmental funds currently in place or planned.

QUESTIONS

A21 – Do you support the introduction of a sustainability fund? Please explain your answer.

A22 – What do you think the objectives of such a fund could be?

A23 – If it were to be introduced, what model could be used to deliver such a fund?

Part B

Operational Considerations

As Scotland's tax authority for the fully devolved taxes, Revenue Scotland has over seven years of experience of both Land and Building Transaction Tax (LBTT) and the Scottish Landfill Tax (SLfT), and has collected almost £5 bn in revenues so far, all of which are used to fund public services in Scotland.

Revenue Scotland will be responsible for the collection and management of this future tax. The Revenue Scotland and Tax Powers Act 2014 (RSTPA 2014) establishes the collection and management framework for devolved taxes. It will provide the legislative framework for the collection and management of this tax, modified as necessary.

Given this established framework, this part of the consultation includes more detailed commentary on the Scottish Government's proposals for the tax. Although there is an existing framework, consultation responses remain essential to explore the case for any changes, refinements or enhancements that will ensure that a future tax is well-designed.

The Scottish Government and Revenue Scotland will seek to ensure that sufficient information is collected as part of the registration and return process so that the regime can be adequately monitored and reviewed.

In support of the Scottish Framework for Tax commitment that taxes should be collected in a manner which maximises convenience for the taxpayer, the collection and management of the tax will be designed to take place online in accordance with Scottish Government's [Digital Nation Principles](#).



Chapter 6:

Registration

6.1 The Scottish Government proposes that any person, whether corporate or non-corporate, intending to or continuing to exploit aggregate in Scotland must be registered with Revenue Scotland for the devolved tax, from the date it is introduced.

6.2 We also propose that registered taxpayers would be required to give notification when they intend to cease commercial exploitation of aggregate, so that they can then be de-registered for tax purposes.

6.3 Currently, associated companies can register for the UK levy as a group. With group registration, a company can be registered alongside other individual companies, in the name of one representative member. At present, this group registration could include companies operating in all parts of the UK.

6.4 The Scottish Government is interested in views on how the process of site registration and taxpayer registration be streamlined. This could, for example, include consideration of whether there are technological solutions available to identify extraction site locations that recognise site boundaries as well as the site location, and make a dynamic assessment of the site boundary. Potential examples might include imaging gathered by drones or satellites, Geographical Information Systems (GIS) and Artificial Intelligence applications.

6.5 We are also interested in other ideas for streamlining site administration, including any potential to combine it with other registration processes such as local authority planning requirements.

QUESTION

B1 – What factors should we take into consideration when making regulations regarding registration for a devolved tax?

B2 – What scope is there to simplify, modernise and streamline both site and tax administration, perhaps using modern technologies?

Declaring exempt aggregate

6.6 For the UK levy, anyone commercially exploiting only exempt aggregate does not need to register. Some information must however be provided to HMRC if the exempt aggregate is one of the following types:

- coal, lignite or slate
- processing waste from the separation of coal, lignite or slate from other rock after extraction
- processing waste from the separation of certain industrial minerals from other rock after extraction

- china clay waste or ball clay waste (not including overburden)
- clay

6.7 Information currently provided regarding exempt aggregate includes:

- business name, address and company registration number
- the type of aggregate commercially exploited
- the dates commercial exploitation began and stopped
- total tonnage exploited
- an estimate of the tonnage of the aggregate to be exploited in the next 12 months
- location of commercial exploitation

QUESTIONS

B3 – What registration requirements should be in put in place for persons which only commercially exploit exempt aggregates, and on what basis?

B4 – Where registration is required, what information could be provided to aid Revenue Scotland in understanding the attributes of an individual site and the wider commercial landscape?

B5 – What opportunities do you think there may be to improve the collection, processing and use of that information?

B6 – Are there other registration processes currently undertaken where the information provided could either overlap or help inform the tax registration process?

Cross border movements

6.8 The Scottish Government recognises that some taxpayers will commercially exploit aggregate in Scotland and the rest of the UK and will therefore be registered for both taxes. We are interested in views regarding how the administration of cross border movements of aggregate can be made convenient and effective.

QUESTIONS

B7 – What factors should we take into consideration to ensure convenient and efficient tax administration of cross border movements of aggregate?

Chapter 7:

Tax Returns And Payments

7.1 The Scottish Government recognises that taxpayers already have systems in place to accommodate the UK Aggregates Levy return. It is important in designing the tax return for a devolved tax that it facilitates efficient and effective compliance of the tax, as well as making the transition for taxpayers as easy as possible.

7.2 The following sections outline the Scottish Government's proposals on how the system for tax returns and payment of tax would be structured and operate in relation to a devolved tax.

Frequency of tax return

7.3 To support administrative efficiency the Scottish Government proposes to introduce a standard quarterly tax return cycle for a devolved tax, covering the following return periods:

- Quarter 1: 1 April – 30 June;
- Quarter 2: 1 July to 30 September;
- Quarter 3: 1 October to 31 December;
- Quarter 4: 1 January to 31 March.

7.4 A standard quarterly tax return cycle would reduce the administrative burden on both taxpayers and Revenue Scotland. In addition, consistency with the quarterly tax return period currently used for SLfT will reduce the number of legislative amendments to the RSTPA 2014 required to implement civil penalty proposals.

Submitting a tax return & paying tax

7.5 The Scottish Government proposes that the tax return for a Scottish replacement for the UK levy will be submitted online.

7.6 The Scottish Government proposes that any tax due will be paid electronically via the same online system. The payment methods available to a taxpayer will be Direct Debit, BACS, CHAPS and Faster Payments.

7.7 Taxpayers and appointed fiscal or administrative representatives will be required to keep and preserve certain types of records and accounts to substantiate information in the tax return.

Claims for repayment and relief

7.8 The Scottish Government proposes that, where taxpayers feel that they have overpaid tax, have been double charged or that a tax assessment by the tax authority is greater than it should be, taxpayers will have the right to make a claim for this amount to either be repaid or discharged.

7.9 We expect claims for reliefs to be made in the quarterly returns. The rules governing repayment and relief set out in Part 6 Chapter 7 of the RSTPA 2014, including the rules which allow Revenue Scotland to deny repayment, are expected to apply. We would welcome views as to whether any changes are required to the current rules for the new aggregates tax.

QUESTIONS

B8 – Do you agree with our proposal for a standard quarterly tax return cycle for the devolved tax? If you answered no, please explain your answer.

B9 – What information could you provide on a Scottish tax return to aid the efficient and effective compliance of the tax?

B10 – Do you have any comments on the Scottish Government proposals regarding submitting a return and paying the tax, or the supporting information to be kept by taxpayers?

B11 – Do you foresee any difficulties in making claims for reliefs as part of the quarterly return process?

Chapter 8:

Tax Compliance

8.1 In order to ensure that the correct amounts of tax are paid at the right time it is important that a range of investigative and enforcement powers, with appropriate safeguards in place, are available.

8.2 Revenue Scotland has a range of investigative and enforcement powers in relation to the two existing devolved taxes, including powers to open enquiries, issue determinations, assessments and information notices, carry out inspections of business premises, and seek recovery of debt through the civil courts. These are in addition to the powers it has to impose civil penalties and interest

8.3 The Scottish Government proposes that those same investigatory and enforcement powers will also be available to Revenue Scotland in relation to a devolved tax on aggregates.

8.4 The following sections outline each of these powers in more detail and we would be grateful for your views on them.

Enquiries

8.5 The Scottish Government proposes that, subject to certain conditions and the time limits set out under Part 6 Chapter 4 of the RSTPA 2014, Revenue Scotland will have the power to open an enquiry into a tax return. The enquiry will be able to cover anything contained (or required to be contained) in the tax return relating to whether the taxpayer is liable to pay tax and/or the amount of tax which is liable to be paid.

8.6 Revenue Scotland will, if it considers it necessary, have the power to amend the self-assessment contained in the tax return either during or at the end of the enquiry (for example if not enough, or too much, tax has been paid).

8.7 Revenue Scotland will also have the power at any point during the enquiry to exercise any of its other investigative powers, such as issuing an information notice, carrying out an inspection etc.

Tax determinations, assessments and corrections

8.8 The Scottish Government proposes that, subject to certain time limits and conditions set out under Part 6 Chapter 5 of the RSTPA 2014, Revenue Scotland will have the power to issue a determination to a taxpayer where it has reason to believe that the taxpayer is liable to pay tax but has not made a tax return by the due date.

8.9 Consistent with current arrangements for LBTT and SLfT, the taxpayer will not be able to request a review or appeal in relation to the decision to issue them with the determination but they will be able to request a review or appeal in relation to the determination itself (see the Dispute Resolution section) or displace it by submitting a tax return within the time period allowed.

8.10 The Scottish Government also proposes that, subject to certain time limits and conditions set out under Part 6 Chapter 6 of the RSTPA 2014, Revenue Scotland will have the power to issue an assessment to a taxpayer

8.11 In both cases the determination or assessment would state, to the best of Revenue Scotland's information and belief, the amount of tax, penalties and interest which the taxpayer is liable to pay. This amount will be recoverable in the same manner as if it were unpaid tax.

8.12 If the determination or assessment contains an under-statement of the taxpayer's tax liability, and the taxpayer is aware of this, the taxpayer may be liable to a penalty for failing to take reasonable steps to notify Revenue Scotland.

8.13 The Scottish Government also proposes that, up to 12 months after receiving a tax return, Revenue Scotland will have the power under section 84 of the RSTPA 2014 to amend the return to correct an obvious error or omission.

Information notices

8.14 The Scottish Government proposes that Revenue Scotland will have the power, in certain situations and subject to specified rules set out in legislation under Part 7 Chapters 2-3 of the RSTPA 2014, to issue a legal notice (an "information notice") to a person requiring them to provide information and/or produce documents in relation to a Scottish replacement for the UK Aggregates Levy. The Scottish Government proposes that the same legislative provisions on information notices which currently apply to the existing devolved taxes will also apply to a Scottish replacement for the UK levy.

8.15 Additional safeguards will also be provided which prevent or restrict an information notice requiring the provision or production of certain types of sensitive information and documents, such as personal records, journalistic material, legally privileged information, and statutory audit information held by auditors.

8.16 Most people will comply with the requirements of an information notice. Where this is not the case, however, the person will be liable to a penalty. It will also be a criminal offence to conceal, destroy or otherwise dispose of (or arrange for the concealment, destruction or disposal of) any document after it has been required to be produced following an information notice which has been approved by the Tax Chamber of the First-tier Tribunal for Scotland.

Inspections

8.17 The Scottish Government proposes that Revenue Scotland will have the power, in certain situations and subject to specified rules set out in legislation under Part 7 Chapters 4-5 of the RSTPA 2014, to enter and carry out an inspection of the business premises of either a taxpayer or an "involved third party" in order to check a person's tax position. This does not include the power to enter or inspect any part of premises used solely as a dwelling.

8.18 The Scottish Government proposes that the same legislative provisions on inspections which currently apply to the existing devolved taxes will also apply to a devolved aggregates tax.

8.19 Most people will co-operate fully when an inspection is carried out. Where this is not the case, a person deliberately obstructing an officer in the course of carrying out an inspection, including in exercising any of the officer's powers, will be liable to a penalty if the inspection has been approved beforehand by the Tax Chamber of the First-tier Tribunal for Scotland.

Debt pursuit

8.20 The majority of taxpayers will pay the correct amount of money they owe in relation to a Scottish replacement to the UK levy. Some taxpayers may, however, be unable to pay the sum of money on time or will choose not to pay it upon demand.

8.21 Where associated companies have registered as group for the tax all members of the group will be jointly and individually liable for any debts relating to the tax.

8.22 In cases where a taxpayer has real difficulty paying any money that is due but is willing to find a way of paying, the Scottish Government proposes that Revenue Scotland will have the flexibility (as it does already) to work with the person to find a payment arrangement acceptable to both parties.

8.23 There will however be cases where, given the circumstances, it is not possible or appropriate to enter into such arrangements. In such cases, the Scottish Government proposes that Revenue Scotland will be able (as it does already) to undertake civil court proceedings to recover the debt by either:

- applying to the Sheriff Court for a summary warrant to be issued; or
- for particular types of cases, seeking recovery through proceedings before either the Sheriff Court or the Court of Session.

Interest

8.24 We propose that interest will be charged on any amount of unpaid tax or penalties in relation to a devolved aggregates tax. This is intended to compensate the tax authority (and therefore the public purse) or the taxpayer for the loss of the use of money, and is not to be viewed as a penalty or other sanction.

8.25 To provide for this, the Scottish Government proposes to use the provisions of Part 9 of the RSTPA 2014 and to modify the Revenue Scotland and Tax Powers Act (Interest on Unpaid Tax and Interest Rates in General) Regulations 2015.

QUESTIONS

B12 – Do you agree that, in relation to the devolved tax, the tax authority should have the investigatory and enforcement powers set out above?

If you answered no, please explain your answer.

B13 – Are there any other safeguards that might need to apply to these or any other powers you think may be needed?

B14 – Are there specific aspects of the industry that may require a different approach, and is there scope to make use of additional data and technical resources?

Chapter 9:

Tax Avoidance and Evasion

9.1 Where it has the power to do so, the Scottish Government wishes to take the toughest possible approach to tackling tax avoidance in relation to Scotland's devolved taxes.

9.2 This is captured in the "Effectiveness" principle of our tax strategy:

- *"Design of the tax system should focus on ensuring taxes raise the expected revenues and achieve their intended aims. This includes designing taxes that minimise opportunities for tax avoidance. The vast majority of taxpayers want to pay the correct amount of tax, and do, but where taxpayers do engage in avoidance practices governments and tax authorities should respond quickly and proactively to tackle them."*

9.3 The Scottish General Anti-Avoidance Rule (GAAR) is established in Part 5 of the RSTPA 2014. It allows Revenue Scotland to take counteraction against tax avoidance arrangements in relation to devolved taxes which it considers to be artificial, even if the arrangements otherwise operate within the letter of the law.

9.4 The Scottish GAAR is significantly wider than the corresponding UK General Anti-Abuse Rule which is based on a narrower test of "abuse" rather than "artificiality". The Scottish Government intends that the Scottish GAAR will also apply to a Scottish replacement to the UK Aggregates Levy.

QUESTIONS

B15 – Are there any areas where artificial tax avoidance might be a concern for a devolved tax? If so, what measures could be taken to reduce potential avoidance?

9.5 Tax evasion (also known as tax fraud) is the illegal non-payment or underpayment of tax, for example by deliberately misrepresenting or withholding information. Fraud (including fraud by agents) is already a common law offence in Scots law, for which the sanction can be an unlimited fine and/or an unlimited term of imprisonment.

9.6 For this reason the Scottish Government did not introduce legislation via the RSTPA 2014 for a new offence of evasion of devolved taxes, and new legislation is not therefore considered to be required to ensure that evasion of the devolved aggregates tax will be an offence. Where it is suspected that evasion of the devolved tax either has taken or is taking place, the matter will be referred to the appropriate authorities by Revenue Scotland for consideration.

QUESTIONS

B16 – Do you agree that the existing arrangements in place regarding tax evasion will be sufficient for the new devolved tax?

If no, please provide commentary to explain your views.

Chapter 10:

Penalties

10.1 It is important that the system for Scotland's devolved taxes operates fairly and efficiently. The Scottish Government recognises that the vast majority of taxpayers want to comply with their obligations.

10.2 To encourage compliance and deter non-compliance, a range of fixed, daily and tax-g geared (or percentage-calculated) civil penalties apply to the devolved taxes. Revenue Scotland has the power in certain circumstances, and for certain penalties, to suspend, reduce or even waive a penalty. The Revenue Scotland website provides [guidance on the penalty system](#) for the devolved taxes.

10.3 The Scottish Government proposes to adopt the penalty framework provided for in the RSTPA 2014 (see further below), with minor modifications to some penalty provisions to ensure they also cover a devolved tax on aggregates. This will ensure that the civil penalty system for a Scottish replacement to the UK Aggregates Levy is consistent with the other devolved taxes.

Current devolved tax penalties

10.4 The following table outlines the current devolved tax penalties which it is proposed will also apply to a Scottish replacement to the UK Aggregates Levy.

- Failure to keep and preserve records in relation to tax returns and tax registration requirements.
- Obstructing or failing to comply with a requirement to allow a designated officer access to, or inspection of, a computer or associated apparatus.
- Failure to submit a tax return on time.
- Failure to pay tax on or before the filing date.
- Submitting a tax return or claim which contains an error that is "careless" or "deliberate" and which either: a) understates the tax liability, b) provides a false/inflated statement of loss/exemption/relief or c) provides a false/inflated claim for relief to or repayment of tax.
- Submitting a tax return or claim which contains an error that is attributable to another person either deliberately supplying false information to, or withholding information from, the person who provides the document, and which either: a) understates the tax liability, b) provides a false/inflated statement of loss/exemption/relief or c) provides a false/inflated claim for relief to or repayment of tax.
- Failure to take reasonable steps to notify the tax authority about a Revenue Scotland under-assessment of tax within specified time period of the assessment date.
- Failure to comply with an information notice or deliberately obstructing the carrying out of an inspection or the exercising of certain powers approved by the Tax Chamber of the First-tier Tribunal for Scotland.

- Continued failure to comply with an information notice or continued obstruction of an inspection or exercising of certain Tax Chamber of the First-tier Tribunal for Scotland approved powers after a penalty under section 195 has been imposed.
- Providing inaccurate information or documents when complying with an information notice.
- Breaching an obligation contained in regulations made under section 111 of the Revenue Scotland and Tax Powers Act (Reimbursement Arrangements) Regulations 2015. These regulations are intended to prevent a taxpayer being reimbursed or repaid tax where it would unjustly enrich them.
- Increased daily penalty for continued failure to comply with an information notice issued to a person to obtain information or documents about another person (or class of persons) whose identity is unknown to the investigating officer.
- Tax-related penalty (of an amount determined by the Upper Tribunal for Scotland) for continued failure to comply with an information notice or obstruction of an inspection and where it is felt that, as a consequence of such behaviour, the tax paid by the person (or which is likely to be paid) is significantly less than it would have been.
- Failure of the taxpayer to register or de-register for tax.
- Failure to comply with a notice to supply the contact details of a debtor.

QUESTIONS

B17 – Do you agree the list of civil penalties set out above should apply in relation to a devolved tax on aggregates?

If you answered no, please explain your answer.

B18 – Are there any other civil penalties that should be considered?

Chapter 11:

Dispute Resolution

11.1 The Scottish Government proposes that taxpayers (and their fiscal or administrative representatives, should these be provided for) who disagree with certain decisions by the tax authority in relation to a Scottish replacement to the UK Aggregates Levy will have the statutory right to request that the tax authority carries out an internal review of that decision and to also appeal to an independent tribunal. A system of mediation will also be offered, but this would need to be jointly agreed by both parties (typically the taxpayer and the tax authority).

11.2 The Scottish Government proposes to use the provisions of Part 11 of the RSTPA 2014 to establish the legislative framework for disputing decisions made by Revenue Scotland in relation to that tax. This will ensure that the dispute resolution system and process for a Scottish replacement to the UK levy is consistent with the other devolved taxes, with reviews carried out by Revenue Scotland and appeals decided by the Tax Chamber of the First-tier Tribunal for Scotland and onwards to Upper Tribunal for Scotland. Guidance on the dispute resolution process is available on the Revenue Scotland website.

11.3 It is further proposed that the list of decisions made by Revenue Scotland in relation to a Scottish replacement to the UK levy, against which a notice of review or appeal can be given, will be those set out in section 233(1) of the RSTPA 2014. The list of Revenue Scotland decisions against which a notice of review or appeal cannot be given will be those set out in section 233(4) of the RSTPA 2014.

Appealable decisions

11.4 The RSTPA 2014 defines as “appealable decisions” the list of Revenue Scotland decisions against which a person aggrieved by that decision has the right to give a notice of review or appeal. The current list of appealable decisions is:

- a decision to make adjustments to counteract a tax advantage;
- a decision in relation to the registration of any person in relation to any taxable activity;
- a decision which affects whether a person is chargeable to tax;
- a decision which affects the amount of tax to which a person is chargeable;
- a decision which affects the amount of tax a person is required to pay;
- a decision which affects the date by which any amount by way of tax, penalty or interest must be paid;
- a decision in relation to a penalty;
- subject to certain conditions and exceptions, a decision in relation to the giving of an information notice or in relation to the use of any other investigatory powers; and
- subject to certain conditions, a decision in relation to the giving of a notice to a third party requiring them to supply the contact details of a debtor.

11.5 The current list of Revenue Scotland decisions which are **not** appealable decisions are:

- giving a notice of proposed counteraction of a tax advantage under the Scottish GAAR;
- making a Revenue Scotland determination in the event of no tax return being submitted; and
- a decision to give a notice of enquiry

QUESTIONS

B19 – Do you agree with our proposals for dispute resolution in relation to a Scottish replacement tax for the UK Aggregates Levy?

If you answered no, please explain your answer.

B20 – What, if any, other decisions not on the proposed list of appealable decisions do you think should be included and why?

Part C

Potential Impact

This part of the consultation is dedicated to questions around the potential impact of proposed policy, and we encourage anyone who has relevant information to contribute to our call for evidence.

We are committed to assessing the potential impacts of the legislation that would introduce a devolved tax on aggregates. This consultation forms part of the process for conducting such assessment, in compliance with legislative requirements and, importantly, to inform the policy development process.



Chapter 12: Impact Assessments

In accordance with legislative requirements, a number of Impact Assessments are or will be completed as part of work to develop the Bill.

Business and Regulation

In developing proposals for legislation, a Business and Regulatory Impact Assessment (BRIA) analyses whether a policy is likely to increase or reduce the costs and burdens placed on businesses, the public sector, voluntary and community organisations.

A partial BRIA accompanies this consultation. Your comments will help update the BRIA, which will be published at the same time as the Bill. Any secondary legislation that flows from the Bill's primary powers will be subject to a BRIA and consultation at that time as necessary.

QUESTIONS

C1 - Do you have any information which could inform any final BRIA relating to the Bill?

Child Rights and Wellbeing Impact Assessment

The Articles of the UN Convention on the Rights of the Child and the child wellbeing indicators under the Children and Young People (Scotland) Act 2014 apply to all children and young people up to the age of 18, including non-citizen and undocumented children and young people.

We have considered the proposed provisions against the requirements of a Children's Rights and Wellbeing Impact Assessment and concluded that there will likely be no impact – direct or indirect – of the Bill on children and young people.

However, this assessment will be revisited following the public consultation, to ensure that any issues raised are taken into consideration.

QUESTIONS

C2 - Are you aware of any examples of particular current or future impacts, positive or negative, on young people, (children, pupils, and young adults up to the age of 26) of any aspect of the proposals in this consultation?

Environment

The Environmental Assessment (Scotland) Act 2005 requires those preparing public plans and programmes to undertake a Strategic Environmental Assessment (SEA) if they are likely to result in significant environmental effects when implemented.

At this stage it is our view that, as per Section 7 of the 2005 Act, the policy around the Scottish aggregates tax would be exempt from the 2005 Act as it is likely to have no or minimal effects on the environment as we do not consider it will have an additional environmental impact to the levy it is replacing.

It is our intention to submit a notification, as per Section 7(3) of the 2005 Act, following the consultation. This approach is to help ensure our opinion on the likely environmental effects does not shift as a result of the consultation.

QUESTIONS

C3 - Are you aware of any examples of potential impacts, either positive or negative, that you consider any of the proposals in this consultation may have on the environment?

Equality

In developing proposals for a Scottish aggregates tax, the public sector equality duty requires the Scottish Government to pay due regard to the need to:

- eliminate discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a relevant protected characteristic.

These three requirements apply across the 'protected characteristics' of:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion and belief;
- sex and sexual orientation.

We have considered the proposals against the needs of the general equality duty as set out in section 149 of the Equality Act 2010, and have considered whether the measures could constitute direct and/or indirect discrimination.

On present evidence, we do not assess that this policy will have any impact on those who share a protected characteristic. This assessment will be updated following the public consultation, and associated engagement, to reflect any new evidence.

QUESTIONS

C4 – Are you aware of any examples of how the proposals in this consultation may impact, either positively or negatively, on these with protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)?

Fairer Scotland Duty

The Fairer Scotland Duty is set out in legislation in Part 1 of the Equality Act 2010 and came into force in Scotland from April 2018. It requires Scottish Ministers and named public bodies to actively consider what more can be done to reduce the 'inequalities of outcome' caused by 'socio-economic disadvantage' when making 'strategic decisions'.

After consideration, our view is that a Fairer Scotland Duty assessment is not required because the proposed tax will not directly impact on those experiencing socio-economic disadvantage and will be paid only by aggregates producers.

However, this assessment will be revisited following the public consultation, to ensure that any issues raised there are addressed.

QUESTIONS

C5 – Are you aware of any examples of potential impacts, either positive or negative that you consider any of the proposals in this consultation may have on groups or areas at socio-economic disadvantage (such as income, low wealth or area deprivation)?

Island Communities

The Islands (Scotland) Act 2018 provides for a duty on Scottish Ministers and other relevant public bodies that they must have regard to island communities in exercising their functions and in the development of legislation.

Section 13 of the 2018 Act obliges the Scottish Ministers to prepare an Islands Communities Impact Assessment (ICIA) in relation to legislation which, in their opinion, is likely to influence an island community that is significantly different from its effect on other communities in Scotland.

A draft ICIA accompanies this consultation, we do not assess that any of the proposed provisions of the bill will have any significant impact for Scottish Islands, however responses to this consultation will be used to update the ICIA.

QUESTIONS

C6 - Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on island communities in a way that is different from the impact on mainland areas?

Part D

Reference and Response

This part includes a glossary of terms, a list of reliefs and exemptions presently in place for the UK levy, a full list of the questions in this consultation document, and details of how to submit a response.



Glossary of Terms

Aggregate	Defined in the Finance Act 2001 as “Any rock, gravel or sand, together with whatever substances are for the time being incorporated in the rock, gravel or sand or naturally occur mixed with it”. Primarily used for bulk fill in construction.
Block Grant Adjustment (BGA)	The Scottish Block Grant is calculated by the Barnett formula, but an adjustment is made to account for devolved revenues and responsibilities, in accordance with the Fiscal Framework Agreement.
Broker	An individual or organisation that negotiates the purchase or sale of items on behalf of another.
Circular Economy	In a circular economy, resources are kept in use for as long as possible, the maximum value is extracted from them whilst in use and then products and materials are recovered and regenerated at the end of each product's viable life cycle.
Commercial Exploitation	Defined in the Finance Act 2001 as considered to have occurred to aggregate when: <i>“it is subjected to exploitation in the course or furtherance of a business carried on by the person, or one of the persons, responsible for subjecting it to exploitation”</i>
Construction and Demolition (C&D) Waste	Waste arising from construction and demolition activities, some of which may be able to be used again as recycled aggregate.
Dimension Stone	Dimension stone is natural stone or rock that has been selected and finished (e.g., trimmed, cut, drilled, ground, or other) to specific sizes or shapes.
Dredging	Dredging is the process of removing materials from the bottom of bodies of water.
Finance Act 2001	An Act of the UK Parliament which established the UK Aggregates Levy.
HM Revenue and Customs (HMRC)	The UK’s tax, payments and customs authority.
Interburden	The layer of material beneath the surface which needs to be removed to extract the primary product.
Land and Buildings Transaction Tax (LBTT)	Land and Buildings Transaction Tax (LBTT) is a tax applied to purchases of land or property, both residential and non-residential, and to non-residential leases.
Overburden	The material, which could include aggregate, on or near the surface. It needs to be removed in order to extract the material beneath which is the primary product.
Primary Aggregate	Naturally occurring aggregates which are being used as aggregate for the first time. Sometimes also referred to as fresh, new or virgin aggregate.
Quarrying	Quarrying is the process of removing rock, sand, gravel or other minerals from the ground in order to use them to produce materials for construction or other uses.

Recycled Aggregate	Recycled aggregates result from the processing of inorganic materials previously used in construction.
Registers of Scotland (RoS)	Registers of Scotland keeps public registers of land, property, and other legal documents in Scotland.
Revenue Scotland	Revenue Scotland is the tax authority with responsibility for the collection and management of Scotland's devolved taxes.
Revenue Scotland Tax Powers Act 2014	Makes provision for a Scottish Tax System to enable the collection and management of devolved tax. It puts in place a statutory framework which applies to the devolved taxes and sets out in clear terms the relationship between the tax authority and taxpayers in Scotland, including the relevant powers, rights and duties.
Scotland Act 2016	The Scotland Act 2016 is an act of the UK Parliament devolving further powers to the Scottish Parliament. The Act enacts recommendations of the Smith Commission.
Scottish Environment Protection Agency (SEPA)	The Scottish Environment Protection Agency is Scotland's principal environmental regulator.
Scottish Fiscal Framework Agreement	The Fiscal Framework agreement between the Scottish and UK Governments determines how the Scottish Government is funded, and underpins the powers set out in the Scotland Act 2016. The Fiscal Framework is a transparent mechanism for adjusting the Block Grant to reflect devolved revenues and the transfer of responsibility for social security to the Scottish Government.
Scottish Landfill Tax (SLfT)	Scottish Landfill Tax is a devolved tax on the disposal of material to landfill.
Secondary Aggregate	Aggregates arising as a by-product of other quarrying, mining and industrial operations.
Smith Commission	The Smith Commission was convened in September 2014 and charged with reaching a cross-party agreement on the devolution of further powers to the Scottish Parliament. Lord Smith of Kelvin oversaw the process. The Smith Commission published its recommendations in November 2014.
Spoil	Leftover material from quarrying or mining
Winning Aggregate	Aggregate can be "won" by quarrying, mining, digging, dredging or collecting aggregate that has been extracted before.

UK Aggregates Levy: Reliefs for Industrial, Agricultural and Exempt Processes

Relief can be claimed for aggregate used in the following processes by those who commercially exploited the aggregate and accounted for the levy to HMRC.

Industrial Processes

- Iron, steel and non-ferrous metal manufacture and smelting processing including foundry processes, investment casting, sinter plants and wire drawing
- Alloying
- Emission abatement for air, land and water
- Drinking water, air and oil filtration and purification
- Sewage treatment
- Production of energy
- Ceramic processes
- Refractory processes
- Manufacture of glass and glass products
- Manufacture of fibre glass
- Manufacture of man-made fibres
- Production and processing of food and drink, for example, sugar refining, production of gelatin
- Manufacture of plastics, rubber and PVC
- Chemical manufacturing for example soda ash, sea water magnesia, alumina
- Manufacture of precipitated calcium carbonate
- Manufacture of pharmaceuticals, bleaches, toiletries and detergents
- Aerating processes
- Manufacture of fillers for coating, sealants, adhesives, paints, grouts, mastics, putties and other binding or modifying media
- Manufacture of pigments, varnishes and inks
- Production of growing media and line markings for sports pitches and other leisure facilities
- Incineration
- Manufacture of desiccant
- Manufacture of carpet backing, underlay and foam
- Resin processes
- Manufacture of lubricant additives
- Leather tanning
- Paper manufacture
- Production of art materials
- Production of play sand, for example, for children's sand pits
- Clay pigeon manufacture
- Abrasive processes: specialist sand blasting, iron free grinding (pebble mills) and sandpaper manufacture
- Use as a propping agent in oil exploration, for example, fracture sands and drilling fluids
- Flue gas desulphurisation and flue gas scrubbing

- Manufacture of mine suppressant
- Manufacture of fire extinguishers
- Manufacture of materials used for fireproofing
- Acid neutralisation
- Manufacture of friction materials, for example, automotive

Agricultural Processes

- Manufacture of additives to soil, for example, agricultural lime
- Manufacture of animal feeds
- Production of animal bedding material
- Production of fertiliser
- Manufacture of pesticides and herbicides
- Production of growing media, including compost, for agricultural and horticultural use only
- Soil treatment, including mineral enrichment and reduction of acidity

Exempt Processes

- creating any type of flat stone, by intentionally cutting or shaping stone to produce one or more flat surfaces after it has been extracted
- producing lime or cement from limestone, or from limestone and anything else, including shale
- using shale for something other than construction purposes
- extracting or separating certain industrial minerals from other aggregate

The levy on waste and by-products from an exempt process may have to be paid if they are commercially exploited. This does not apply to material that is entirely processing waste from separating industrial minerals* from aggregate after extraction.

China clay and ball clay are industrial minerals for which there is a specific exemption for waste (not including overburden) from extraction.

*The industrial minerals are:

- | | |
|---------------------------------|----------------------|
| • anhydrite | • metal or metal ore |
| • ball clay | • muscovite |
| • barytes | • perlite |
| • china clay | • potash |
| • feldspar | • pumice |
| • fireclay | • rock phosphates |
| • fluorspar | • sodium chloride |
| • fuller's earth | • talc |
| • gems and semi-precious stones | • vermiculite |
| • gypsum | |

Question List

Chapter 1 – The Context for a Devolved Aggregates Tax

A1 – Are there any aspects of the aggregates sector in Scotland to which the Scottish Government should give particular consideration in developing proposals for a tax?

A2 – Do you consider that a devolved tax has the potential to support Scotland’s overall circular economy ambitions? Please provide commentary for your views.

A3 – What other considerations should Scottish Government take into account in terms of the rationale for a tax on the commercial exploitation of aggregates?

Chapter 2 – The Scope of the Tax

A4 – In keeping with our Framework for Tax and ambitions for a circular economy, what options should the Scottish Government consider in terms of defining “aggregate” for the purposes of a tax and on what basis?

Do your views on this have a bearing on the Scottish Government’s consideration of reliefs and exemptions? If so, please provide further details.

A5 – Do the UK levy definitions of “commercial exploitation” as set out above cover all relevant circumstances in which this could be deemed to occur in Scotland?

Please provide commentary for your views, including to outline any alternative or additional examples of “commercial exploitation” which you think should be covered in a future tax.

A6 – For any examples of commercial exploitation, should there be any exceptions in a devolved tax? If so, on what basis would these be appropriate?

A7 – Subject to your views on the circumstances in which commercial exploitation occurs, are there any specific exemptions which should be legislated for, and on what basis?

A8 – How should the Scottish Government treat movements of aggregates between Scotland and the rest of the UK in situations where commercial exploitation would not currently be considered to have occurred?

A9 – Do you agree that the Scottish Government should treat imports in the same way as currently applies for the UK levy, taking account of the Scotland Act 2016 provisions?

A10 – What measures might help to ensure that imports of aggregates are identified and taxed appropriately? Please provide supporting commentary.

Chapter 3 – Exemptions and Reliefs

A11 - Do you agree that recycled aggregate should be exempted from a devolved tax? Please set out commentary on your views.

A12 – Which exemptions do you consider would be required, and in keeping with the proposed scope of the Scottish replacement tax, and on what basis?

A13 – Are any exceptions to these exemptions required, and on what basis?

A14 – Aside from reducing the number of exemptions currently available in the UK levy, are there opportunities for the Scottish Government to simplify arrangements for exemptions in a devolved tax? Please set out commentary for your answer.

A15 – What reliefs do you consider would be required under a Scottish tax, and on what basis? Would the reliefs in place for the UK levy be appropriate? If so, why?

A16 – In what circumstances should the Scottish Government consider a relief rather than an exemption from the tax?

A17 – How should the Scottish Government approach the taxation of exports from Scotland in a future tax?

A18 – Are there alternatives to an exemption which could be considered, but which may require accompanying amendments to current UK levy provisions?

Chapter 4 – Tax Rates

A19 – Which factors should be taken into consideration when setting any rate for the tax, including through the annual Scottish Budget process?

A20 – Would it be appropriate for the Scottish Government to include powers in a Bill to legislate for more than one rate of tax? If so, on what basis?

Chapter 5 – A Sustainability Fund?

A21 – Do you support the introduction of a sustainability fund? Please explain your answer.

A22 – What do you think the objectives of such a fund could be?

A23 – If it were to be introduced, what model could be used to deliver such a fund?

Chapter 6 – Registration

B1 – What factors should we take into consideration when making regulations regarding registration for a devolved tax?

B2 – What scope is there to simplify, modernise and streamline both site and tax administration, perhaps using modern technologies?

B3 – What registration requirements should be in put in place for persons which only commercially exploit exempt aggregates, and on what basis?

B4 – Where registration is required, what information could be provided to aid Revenue Scotland in understanding the attributes of an individual site and the wider commercial landscape?

B5 – What opportunities do you think there may be to improve the collection, processing and use of that information?

B6 – Are there other registration processes currently undertaken where the information provided could either overlap or help inform the tax registration process?

B7 – What factors should we take into consideration to ensure convenient and efficient tax administration of cross border movements of aggregate?

Chapter 7 – Tax returns and payment

B8 – Do you agree with our proposal for a standard quarterly tax return cycle for the devolved tax? If you answered no, please explain your answer.

B9 – What information could you provide on a Scottish tax return to aid the efficient and effective compliance of the tax?

B10 – Do you have any comments on the Scottish Government proposals regarding submitting a return and paying the tax, or the supporting information to be kept by taxpayers?

B11 – Do you foresee any difficulties in making claims for reliefs as part of the quarterly return process?

Chapter 8 - Tax Compliance

B12 – Do you agree that, in relation to the devolved tax, the tax authority should have the investigatory and enforcement powers set out above? If you answered no, please explain your answer.

B13 – Are there any other safeguards that might need to apply to these or any other powers you think may be needed?

B14 – Are there specific aspects of the industry that may require a different approach, and is there scope to make use of additional data and technical resources?

Chapter 9 – Tax Avoidance and Evasion

B15 – Are there any areas where artificial tax avoidance might be a concern for a devolved tax? If so, what measures could be taken to reduce potential avoidance?

B16 – Do you agree that the existing arrangements in place regarding tax evasion will be sufficient for the new devolved tax? If no, please provide commentary to explain your views.

Chapter 10 – Penalties

B17 – Do you agree the list of civil penalties set out above should apply in relation to a devolved tax on aggregates? If you answered no, please explain your answer.

B18 – Are there any other civil penalties that should be considered?

Chapter 11 – Dispute Resolution

B19 – Do you agree with our proposals for dispute resolution in relation to a Scottish replacement tax for the UK Aggregates Levy? If you answered no, please explain your answer.

B20 – What, if any, other decisions not on the proposed list of appealable decisions do you think should be included and why?

Chapter 12 – Impact Assessments

C1 – Do you have any information which could inform any final BRIA relating to the Bill?

C2 – Are you aware of any examples of particular current or future impacts, positive or negative on young people, (children, pupils, and young adults up to the age of 26) of any aspect of the proposals in this consultation?

C3 – Are you aware of any examples of potential impacts, either positive or negative, that you consider any of the proposals in this consultation may have on the environment?

C4 – Are you aware of any examples of how the proposals in this consultation may impact, either positively or negatively, on these with protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)?

C5 – Are you aware of any examples of potential impacts, either positive or negative that you consider any of the proposals in this consultation may have on groups or areas at socio-economic disadvantage (such as income, low wealth or area deprivation)?

C6 – Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on island communities in a way that is different from the impact on mainland areas?

Responding to this Consultation

We are inviting responses to this consultation by 4 December 2022.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/taxation-and-fiscal-sustainability/scottish-aggregates-tax>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 4 December 2022.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form, and send it with your response:

By email to: Devolvedtaxes@gov.scot

Or by post to:
Scottish Aggregates Tax Consultation
Directorate for Tax and Revenues
Area 3D North
Victoria Quay
Edinburgh EH6 6QQ

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at Devolvedtaxes@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review;
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



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