

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

Consultation Analysis Report

November 2023

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1. Executive Summary

Overview

The Scotland Act 2016 provided the Scottish Parliament with the power to legislate for a devolved replacement for the UK Aggregates Levy (UKAL). This levy, which came into effect in April 2002, was introduced to ensure that the environmental impacts of aggregates extraction were more fully reflected in prices. It generally applies to the commercial exploitation of primary aggregates (i.e., crushed rock, gravel and sand) used in a range of contexts, including housebuilding, infrastructure, landscaping, and environmental protection.

A UK Government review of UKAL concluded that the tax continues to play a role in achieving the UK Government's wider environmental and mineral planning objectives, including to encourage the more efficient extraction and use of all aggregates.

Publication of this document coincides with introduction of the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill ("the Bill") to the Scottish Parliament. The Bill provides for the key aspects of the devolved tax, to be known as the "Scottish Aggregates Tax" (SAT). It also includes a small number of administrative measures of relevance to all fully devolved taxes, which are not considered in this document.

This document includes an analysis of responses to a Scottish Government consultation on the aggregates tax elements of the Bill. It also summarises the issues discussed at meetings of an advisory group convened in 2023. Where relevant, commentary on decisions taken by the Scottish Government for the Bill, following consultation and engagement, is provided.

Consultation and Engagement

In September 2022, the Scottish Government published a consultation seeking views on how a devolved aggregates tax, replacing UKAL, should be structured and operate. This public consultation - [Breaking New Ground? Developing a Scottish tax to replace the UK Aggregates Levy](#) - ran to late December 2022. A list of consultation respondents is provided at Annex B.

An advisory group was convened in March 2023 to support further and more detailed consideration of several policy issues. Details of the group's membership and a link to the note of each meeting is provided at Annex A. To date the group has met on five occasions. The Scottish Government intends to continue to convene meetings of the group, together with Revenue Scotland, to support the implementation of SAT.

Summary of Views

During the consultation period and throughout the advisory group meetings, the Scottish Government heard views from a variety of individuals and organisations, including those involved in: aggregates production and usage; construction and

infrastructure; waste and resource management; environmental interests; and tax, accountancy and legal representative organisations.

The key points that emerged from the initial consultation were:

- Strong support amongst many respondents, particularly those representing industry interests, for the tax to align closely with UKAL and retain current definitions, exemptions and reliefs.
- An alternative view from some respondents that the Scottish Government should introduce a distinctive tax with a broader scope, or could express the same scope more clearly in legislation. Alternative approaches suggested by respondents included to define the scope of the tax with reference to mineral type, construction activity or by availability of alternative products. However, specific and detailed proposals were not put forward.
- Broad agreement that the tax has the potential to support circular economy goals, as part of a wider package of measures to encourage the increased availability of high-quality alternatives to primary aggregate.
- A view that the introduction of a devolved tax creates an opportunity to address concerns about untaxed primary aggregate production, including through the development of a Scottish Aggregates Tax register.
- Recognition of the complexities associated with creating two tax jurisdictions where there was previously one, including the treatment of cross-border movements of aggregate and the importance of avoiding double taxation.
- The importance of continuing dialogue with key stakeholders on tax policy development, in line with commitments set out in our Framework for Tax.

Next Steps

The material and views gathered through the consultation activities have informed the provisions in The Aggregates Tax and Devolved Taxes Administration (Scotland) Bill.

The Bill will be considered by the Scottish Parliament in line with its established process for examining draft legislation, more details of which can be found on the [Scottish Parliament website](#).

If the Bill secures Parliamentary approval, secondary legislation and preparatory work by Revenue Scotland will also be required before SAT can be formally introduced. This is in keeping with the approach taken with the other fully devolved taxes, Scottish Landfill Tax and Land and Buildings Transaction Tax.

2. Overview of Consultation and Engagement

The Scottish Government's [Framework for Tax](#) sets out a commitment to tax policy making that is 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.

Consistent with the Framework for Tax, the Scottish Government has sought throughout its approach to consultation and engagement to ensure that proposals for SAT take account of the views of stakeholders, are well-designed, reflect the Scottish context and take advantage of the opportunities offered by devolution, including in terms of tax administration.

More specifically, the Scottish Government has considered the responses to a formal consultation held in late 2022, the points raised in engagement with various stakeholders, available evidence and research and the views of members of an advisory group convened in March 2023. Commentary on these elements is provided below.

Consultation Document

In September 2022, the Scottish Government published a consultation document to inform the development of a future Bill. The [consultation](#) ran for 12 weeks.

The consultation included a range of open and closed questions on several issues, including on rationale and context, scope, exemptions and reliefs, tax rates and administration. Views were also sought to inform the active and ongoing consideration of the various impact assessments for the Bill. For all closed questions, respondents had an opportunity to offer comments to support their views.

24 responses were submitted to the consultation. They came from a broad range of respondents, made up of 21 organisations and three individuals. For the purposes of the analysis, respondents have been broadly categorised as follows:

Type of Organisation	Number of Responses
Primary Aggregates Industry	4
Waste and Resource Management	5
Other Industry	4
Environmental	3
Tax, Accountancy or Legal	3
Local Authority	2
Individuals	3

The consultation responses were analysed by officials from the Scottish Government and Revenue Scotland. Key findings from the analysis are presented in chapters 3, 4 and 5 of this document.

For Chapter 3, the analysis groups the relevant questions from each chapter of the consultation together, summarising and analysing the responses received in turn. Relevant discussion at the Scottish Government's advisory group is highlighted, followed by a summary of the Scottish Government's response and commentary on the relevant elements of the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill, as introduced to the Scottish Parliament.

For Chapters 4 and 5, the analysis again groups together the questions from each chapter of the consultation. However, a single summary of any advisory group discussion and commentary on the Bill is then provided at the end of each section.

A list of respondents is also set out in Annex B. Where permission has been given, responses have been published in full on the Scottish Government's consultation webpage at www.consult.scot.

Other Engagement

Scottish Government and Revenue Scotland officials have also met with a range of stakeholders to discuss their views.

Meetings took place with industry representative bodies and with the Convention of Scottish Local Authorities (COSLA), given councils' use of aggregate for purposes including housebuilding, infrastructure works and roads maintenance.

Officials engaged with the Scottish Environment Protection Agency (SEPA) to learn from their experience of supporting Revenue Scotland's Scottish Landfill Tax compliance work and with Transport Scotland, given the relevance of aggregates for road construction and maintenance. Meetings have been held with UK Government officials from HMRC and HM Treasury to support an understanding of the operational and policy contexts of UKAL, and consideration of how this could inform the design of the devolved tax.

During and after the initial consultation period, Scottish Government and Revenue Scotland officials visited several aggregate production sites operated by both primary and recycled aggregates producers. Officials also visited the British Geological Survey to learn more about Scotland's complex geology and how its resources of rock, gravel and sand have been produced and used over time. The Scottish Government would like to thank all those who facilitated and hosted visits.

Advisory Group

In early 2023, taking consultation feedback and stakeholder views into account, the Scottish Government concluded that further work was needed to ensure that decisions on policy positions for SAT were based on optimal evidence. An advisory group was convened to help inform this process.

Further information on the advisory group, including on its membership, is available in Annex A. Where appropriate, the issues raised in discussion at the group are referenced in the consultation analysis commentary.

Other Considerations

In addition to the above, the Scottish Government has taken a range of relevant sources of evidence into account. These include the report of the [UK Government's 2020 review of UKAL](#), relevant UK statistics and Scottish Government commissioned [research](#) into options for a devolved tax.

3. Part A - Analysis of responses to consultation paper and relevant Advisory Group discussion

Overview

Part A of the consultation document, covering Chapters 1 to 5, considered the following issues related to strategic context and tax structure:

- Chapter 1: The Context for a Devolved Aggregates Tax (Questions A1-A3)
- Chapter 2: The Scope of The Tax – Defining “Aggregate” And “Commercial Exploitation” (Questions A4-A10)
- Chapter 3: Exemptions and Reliefs (Questions A11-A18)
- Chapter 4: Tax Rates (Questions A19-20)
- Chapter 5: A Sustainability fund (Questions A21-A23)

3.1 The Context for a Devolved Tax

Chapter 1 of the consultation document provided context on the aggregates sector in Scotland, along with commentary on the production and use of aggregates and on the definitions being used for primary, secondary and recycled aggregates. It also confirmed that Revenue Scotland would be the tax authority responsible for the collection and management of the devolved 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?

Number of responses: 12

Four respondents, including primary aggregates industry and other industry respondents raised points broadly related to the importance of understanding the circumstances in which aggregates are used in Scotland. These included: a concern that the consultation had not properly recognised that aggregates are not just used in “bulk fill”, but also in high specification, high value applications, with industry specialism in both extraction and production; that primary aggregates are used for a range of economic purposes, including for manufacturing and for energy, transport and other infrastructure; and that geographic considerations limit the degree to which a tax can shape the market.

It was also noted that that Scotland is largely self-sufficient in terms of aggregates, with only small levels of sand and gravel imports, and a significant net exporter of crushed rock. Increasing demand for aggregates provided a further economic opportunity for Scotland, including in more remote parts of the country.

Another grouping of four waste and resource management respondents focused on the progress being made to develop the recycled and secondary aggregates markets in Scotland. They highlighted the establishment of numerous plants and sites and significant investment to support recycling of construction and demolition waste to create different levels of aggregates with a variety of uses, as well as concerns

around barriers to the increased use of recycled aggregates for construction purposes. However, one primary aggregates industry respondent highlighted points around the more limited availability of recycled aggregate in rural areas.

Responses from three individuals highlighted, separately and in high-level terms, a need to consider the land that would be harmed or changed in the sourcing of raw materials, as well as concerns around the fairness of UKAL in terms of how it distinguished between different types of rock, and the use of aggregates in roads construction and maintenance.

Some respondents offered points that were relevant to other questions rather than this. These responses are not included in the total for A1 and the relevant points are picked up where appropriate.

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.

Number of responses: 17

In high-level terms, 12 respondents, either directly or through their comments, considered that the tax could support the circular economy. As summarised below, these respondents offered context and caveats for their comments.

Only one respondent explicitly stated that they did not consider that the tax could support the circular economy, based on concerns about the potential implications of any divergence from UKAL arrangements for silica sand quarries and glass manufacturers.

Two primary aggregates industry respondents raised various points of concern or scepticism, with one indicating that any impact could only be partial at most. Alongside an acceptance that recycled aggregates had a part to play overall, these respondents noted that: many applications require the properties of high-quality primary aggregates; recycling levels of “hard” construction and demolition materials are already high and scope to increase this is considered limited; recycled or secondary materials are unevenly distributed throughout Scotland; and there are limited sources of secondary aggregates in Scotland. One of the individual respondents also took a nuanced position, noting that the potential impact would depend on implementation and whether, for example, the tax arrangements resulted in more material being brought in from outside Scotland.

The respondents indicating full or partial agreement highlighted one or more of the themes below in their remarks.

- Five respondents, representing a mix of environmental organisations and those with an interest in waste and resource management, were clear in their view that the tax would require complementary measures to have an effect and ensure, for example, that high quality, affordable and desirable recycled or alternative aggregates would be accessible to the construction industry. These views also broadly assumed that recycled aggregate would be exempt.

- Three respondents considered that the tax rate would need to be higher than that for UKAL to have an impact.
- One of the tax, accountancy or law organisations expressed agreement in principle, but called for further analysis of the intended policy aims. Another considered that a devolved tax could support Scotland’s broader circular economy ambitions with clear objectives and clear, concise legislation that is kept up to date. The respondent also highlighted broader points around the need to consider an annual legislative vehicle for changes to the fully devolved taxes.
- Two other respondents noted points around the need to take environmental damage and environmental performance into account when considering the rationale for a tax, and to consider the limited availability of recycled aggregates in some areas.

Responses from three individuals, who did not offer a firm opinion or provide further commentary, stated that a tax: may simply make investment in developing infrastructure more expensive if circular economy options were not available; may harm the circular economy if done poorly; and would have a significant impact on the public sector.

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

Number of responses: 18

Respondents offered comments across a diverse range of themes, including that:

- The Scottish Government should “recognise and praise” the industry’s environmental performance in managing active quarries and their restoration; recognise the relative impacts of primary and secondary aggregates; and address the risks that a devolved tax would create unnecessary administrative burdens and market distortion.
- There is an opportunity to improve enforcement and address issues related to temporary extraction sites known as “borrow pits”, through reporting and registration arrangements.
- The UKAL sustainability fund could be re-introduced to deliver local environmental and social benefits.
- The Scottish Government should consider the broader transportation system and its impact, recognising the impact of proximity on the cost of aggregates, carbon emissions, and local job markets.
- The Scottish Government should encourage the continued development and operation of plants that produce recycled aggregate, particularly in locations where recycled aggregate is needed and ensure that these materials remain exempt.
- The Bill should establish definitions and different treatment for multiple grades of recycled aggregates.
- Consideration could be given, over and above an exemption for recycled aggregates, to introducing some sort of tax credit for use of recycled and secondary aggregates.

- Over and above the specifics of an aggregates tax, the Scottish Government should consider a broader carbon tax linked to all primary or virgin resources, including timber, plastic resin derived from petroleum refining process, and mined/processed metals.
- Any tax would simply represent an additional cost on development where suitable recycled alternatives are not available.
- Arrangements for the tax should take into account that local authority run quarries are not operated for commercial gain.
- Any divergence across the UK could create distortions where quarries operate close to the border between Scotland and England.
- The Scottish Government should take into account environmental damage and environmental performance in the rationale for the tax.

Four respondents with a connection to waste and resource management specifically reflected on the intended role for Revenue Scotland in their responses, calling for lessons to be learned from implementation of Scottish Landfill Tax, for clear communication and collaborative working with industry well in advance of any changes being introduced and for more detail to be provided as to how Revenue Scotland will manage and resource the administration of the new tax.

Advisory Group discussion

Members discussed the overall context for the devolved tax during the first meeting of the group. This included consideration of the important role of aggregates in the Scottish economy; the nature of the industry in Scotland, including patterns of supply and demand and the flow of imports and exports; how the tax might best be harnessed to support wider circular economy ambitions in the context of other legislative, policy and sector-driven initiatives; and the challenges of using recycled and secondary aggregates and other novel materials, as an alternative to primary aggregate.

Scottish Government response

The Scottish Government intends that SAT will align with wider ambitions to deliver a fair, green and growing economy; in particular, the ambitions for a circular economy, which aims to minimise our demand on primary resources and maximise the re-use, recycling and recovery of resources.

The Scottish Government notes the points raised by respondents around the importance of any tax measure being accompanied by a wider package of measures to support the circular economy.

The 2023/24 Programme for Government outlines the Scottish Government's commitment to set out priority actions to accelerate progress against our waste and recycling targets through a final Circular Economy and Waste Route Map. The Route Map will build on the progress that has been made and set out the priority actions to drive delivery of our system-wide, comprehensive vision for Scotland's circular economy.

The responses to the 2022 consultation on initial Waste Route Map proposals have been [published](#) and the Scottish Government is considering this feedback carefully. A second Waste Route Map consultation will be published later this year along with updated impact assessments, before a final Route Map is confirmed.

The Scottish Government also intends that the devolved tax will demonstrate the operational benefits of tax devolution, reflected in a modern and effective Scotland-specific approach to tax collection and management.

3.2 The Scope of The Tax – Defining “Aggregate” And “Commercial Exploitation”

Chapter 2 of the consultation paper sought views on issues related to the scope of the devolved tax.

Reflecting the Scotland Act 2016 provisions and arrangements for UKAL, this included consideration the appropriate definitions of “aggregate” and “commercial exploitation” for the devolved tax. Views were sought on the tax treatment of material which is moved to Scotland, moved between Scotland and the rest of the UK, or imported/exported internationally.

Definition of “Aggregate”

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.

Number of responses: 13

Four responses from primary aggregates and other industry respondents called for complete consistency with the UKAL definition, reflecting extensive engagement over time with the UK Government on this and previous litigation. One of these respondents focused on the potential negative impacts of any change on glass manufacturers sourcing raw materials from Scotland and/or Scottish glass manufacturers.

The six other organisations and three individuals responding offered a diverse range of views. One environmental organisation called for a wide definition, with as few exemptions as possible, and for consideration to be given to taxing recycled aggregate where it creates scope for contamination or pollution.

One waste and resource management respondent considered the definition should be as broad as possible without any financial loopholes, though without specifying what these might be. Another suggested that a definition would be required to separate virgin from recycled aggregates or repurposed materials such as ground glass and rubber crumb from tyres.

A primary aggregates industry respondent called for a distinct approach in areas where alternatives to primary aggregates were not available, noting a particular relevance for this in rural areas.

One of the tax, accountancy or legal organisation respondents reflected that it might be sensible to use the existing UKAL definition given that it has been tested in previous litigation, but that a review could be undertaken once the tax is fully functional. Another did not express a specific preference, noting that adopting the current UKAL definition would be attractive to producers, given their familiarity with

what is and is not currently taxable. If the Scottish Government wished to take a distinctive approach there would however be an opportunity to specify more precisely which minerals come within the scope of the tax and to make the legislation more focused, clear and efficient.

One individual respondent called for aggregates to be defined as those products that are used for construction purposes and suggested that various materials and products should not be covered. The two other individual respondents highlighted that there may be challenges in identifying the material used in cement and mortar, and that aggregates should be defined in terms of mining method and usage rather than geological type.

Definition of “Commercial Exploitation”

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.

Number of respondents: 13

Five respondents indicated they were unsure, but without any comment.

Three primary aggregates industry respondents supported adopting the UKAL definition on the grounds of consistency. One of these highlighted the opportunity to ensure that aggregates for exploitation are worked and supplied only from properly registered, permitted and regulated sites which are properly permitted and regulated. In addition, two of the tax, accountancy or legal respondents did not see or identify any need to change the existing UKAL definitions, with one also highlighting the need to give careful thought to cross border considerations.

Three other respondents provided commentary, but not a firm view on the question. One primary aggregates industry respondent considered that the tax should only apply to material specifically extracted for the purposes of inclusion in subsequent work and should not cover material extracted primarily for other benefits such as on-site construction or flood defences. Though not offering specific suggestions, an environmental organisation called in general for the definition to reflect the environmental impacts of extraction and for fewer exceptions to be included, whilst an individual respondent highlighted potential complexities associated with specific scenarios and materials, including by-products.

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?

Number of responses: 14

11 respondents offered views in response to this question, whilst a further three indicated without comment that they were unsure if a devolved tax should have exceptions.

Two respondents set out specific proposals. One local authority respondent suggested that an exception should be included where a quarry owned by a local authority used the products for its infrastructure maintenance, whilst a primary aggregates industry respondent suggested there should be an exception for any exploitation which is primarily for the development or benefit of the extraction site.

Separately, an environmental organisation set out their view that there should be minimal exceptions, with the environment as the foremost consideration, but did not offer any specific proposals.

Three primary aggregates industry respondents called for current UK arrangements to be maintained, whilst one of the tax, accountancy or legal organisations stated that they were not aware of any reasons for these to be changed. A further three respondents from the waste and resource management sector called specifically for the current UKAL exemption on recycled aggregate to be maintained.

One individual respondent did not consider that there should be any exceptions, noting that aggregate used for construction purposes should be within the scope of the tax to avoid confusion and fraud.

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?

Number of responses: 12

Nine respondents offered specific reflections on this question, with a further three indicating that they were unsure without comment.

Three respondents answered yes. A local authority respondent restated their proposal that quarries owned by councils using the product for its own infrastructure maintenance should be exempt. Without offering specific proposals, one individual called for local aggregate to be encouraged in rural areas and another made a general comment around the importance of being creative.

Three respondents related to the primary aggregates industry considered that there was no need to change existing UKAL arrangements, whilst one of the tax, accountancy or legal organisations noted that the answer to this would depend on the Scottish Government's policy intent. One environmental organisation noted as a broader point the potential relevance, at that time, of the Westminster Retained EU Law Bill, for legislation related to environmental protection in Scotland.

Another individual respondent called for tax to apply to the use for aggregates purposes of any residue aggregate left over after material is extracted for non-aggregate purposes.

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?

Number of responses: 11

Respondents largely reflected on the potential for complexities and risks to arise in relation to the movement of aggregate between Scotland and the rest of the UK, and vice versa. Where a specific view on treatment was set out, this was that tax should be charged on the eventual place in the UK in which the aggregate was used.

One environmental organisation considered that definitions and understanding of commercial exploitation should not change when aggregates are moved between Scotland and the rest of the UK, whilst one of the tax, accountancy or legal respondents noted that the appropriate treatment would depend on the Scottish Government's overall policy decisions for the tax.

Representatives of the primary aggregates sector called for close alignment with UKAL and expressed concern about the potential complexities and risks for business having to deal with two tax authorities. They called on Revenue Scotland and HMRC and the UK and Scottish Governments to work together to seek to minimise complexities where there is cross border movement.

One waste and resource management respondent called on consideration to be given to the conclusions of the Scottish Government commissioned Aggregates Minerals Survey [2019](#), surveying Scottish aggregate production, noting the potential percentages of crushed rock exported from Scotland and the potential implications of this for achieving the tax's proposed circular economy objectives.

Treatment of imports

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?

Number of responses: 15

13 respondents from a variety of respondent groups indicated that they agreed with this. Five provided additional commentary to support their position.

Two respondents indicated they were not sure, without further comment. No respondents disagreed with the proposal.

Points in favour of taxing imports included that it would ensure that Scottish businesses are competing on a level playing field or would be consistent with the policy aim. Other respondents also discussed the need to separately consider issues

around the movement of aggregate from the rest of the UK to Scotland and the importance of considering existing UKAL arrangements to prevent double taxation. One respondent highlighted the need to consider prior experience of the application of UKAL in Northern Ireland in terms of the potential impacts of differential rates.

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

Number of respondents: 8

Respondents to this question offered a range of distinct suggestions, as summarised below.

- The tax should be aligned with the rest of the UK.
- Landing ports for aggregates should be registered for the tax, as is the case for UKAL.
- Final users should have to prove that a competent registered supplier had been used in the supply of their aggregates.
- Some form of policing should be introduced for imports, possibly involving a collaboration between Revenue Scotland, local authorities and SEPA, together with relevant administration and data collection.
- Documentation should be kept simple.
- There should be a reward for those who report “illegal” imports of aggregate.
- A special condition should be added in construction contract documents, requiring contractors to demonstrate that the aggregates proposed will conform to specifications (potentially with a minimum recycled content) and to provide a declaration on origin. Though not directly connected to this question, this respondent also suggested that Scottish public sector procurement could be used to drive the increased use of recycled aggregate in specifications.

Advisory Group discussion

Several relevant issues were considered and discussed by the advisory group at its second meeting. The general view, from those expressing a position, was in favour of adopting UKAL definitions of aggregate, taxable aggregate, commercial exploitation and exempt aggregate. The main reasons given in support were: (1) the definitions had developed over a long period of time with extensive engagement between the UK Government and stakeholders, (2) they are widely understood by the industry¹⁷¹⁷, and (3) they had been considered and validated through litigation, including by the European courts.

The advisory group carefully considered how the definitions, and in particular that of commercial exploitation, would apply to the cross-border movement of aggregate within the UK. Consideration was given to both movements from Scotland to the rest of the UK and movements in the other direction. For both there was a clear view that aggregates should only be subject to one of SAT or UKAL.

In terms of movements of aggregate from Scotland, there was a comprehensive discussion. Initially, some expressed the view that it could be better for the tax to be

levied in the country of extraction/production. However, after examining the potential administrative complexities, as well as the relevant Scotland Act provisions and the risk of double taxation, a consensus emerged in favour of levying the tax in the country where it is used. In practice this would mean providing a SAT tax credit for any aggregate moved to the rest of the UK, with UKAL then accounted for as appropriate. This would be consistent with Scotland Act 2016 provisions for UKAL, which will allow for a tax credit to be claimed for aggregate moved to Scotland from the rest of the UK, after introduction of the devolved tax.

Further consideration was then given to the appropriate treatment of aggregate moved to Scotland. The starting point was to consider taxing this in the same way as an international import, which was consistent with the overall approach discussed above. However, further consideration was necessary after significant concerns were raised that this could result in Scottish customers (e.g. a garden centre) purchasing aggregate from a producer in the rest of the UK having to account for the tax for the first time, creating entirely new administrative burdens and possible disruption to the cross-border aggregates market. There was broad consensus that, whilst not ideal, bringing a small number of additional aggregate suppliers based in the rest of the UK into the devolved tax regime was preferential to an approach where an entirely new group of customers would be required to register for and pay SAT. It was noted the preferred approach would minimise tax compliance risks as well as reducing the risk that customers would change purchasing behaviour to avoid tax complexities.

The advisory group also highlighted the overall importance of minimising any additional administrative burden on aggregates producers and disruption to the industry.

Scottish Government response

The Scottish Government has decided to adopt in the Bill the definition of “aggregate” provided for in UKAL. This is on the basis that it is compatible with the intended objectives for the tax, is well understood by aggregate producers, and is supported by existing UKAL taxpayers.

UKAL definitions of “commercial exploitation” have been retained for the same reasons. As such, the Bill stipulates that aggregate is considered to have been commercially exploited when it is either removed from its originating site, becomes subject to an agreement to supply it to any person, is used for construction purposes or is mixed with any material or substance other than water.

The Scottish Government has also decided that the treatment of imports should be consistent with current UK arrangements. Revenue Scotland will take account of the points raised in relation to administration as part of their ongoing preparatory work and engagement.

However, following careful consideration of the appropriate treatment of cross-border movements, the Scottish Government has concluded that movements of aggregate from the rest of the UK to Scotland should not be treated as an import. The Scottish Government considers that the least burdensome and most administratively

straightforward approach to cross-border transactions would instead be for the aggregate producer to account for the tax as they would in a purely Scottish located transaction. This means that commercial exploitation of aggregate moved to Scotland from the rest of the UK will be taken to occur in Scotland.

For movements of aggregate from Scotland to the rest of the UK, the Scottish Government intends that a SAT tax credit can be claimed. This is discussed further in the next section.

3.3 Exemptions and Reliefs

Chapter 3 of the consultation paper provided context on the current exemptions and reliefs for the UKAL and sought views on the case for these, or others, to be provided for in the devolved tax.

Exemptions

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

Number of responses: 19

18 of the 19 respondents agreed that recycled aggregate should be exempt from the tax, though sometimes with caveats.

Opposition to the exemption came from an environmental organisation, on the basis of potential environmental damage. While the respondent considered that there may be justification for applying a different rate of tax for recycled aggregates, it did not agree that it should be exempt.

Various points were cited in support of including an exemption, including that it would be in keeping with the stated circular economy aims of the tax, would assist in carbon reduction, and that not having an exemption could undermine progress to date in adopting circular construction practices.

A range of points were made by respondents in support of the exemption. One industry representative placed a particular focus on glass, noting that other policies should incentivise waste glass cullet going to remelt rather than aggregates to promote a more circular economy for glass products.

Points raised by waste and resource management respondents included that it would be helpful to have a clear definition of “recycled aggregate” in the Bill that was both supportive of related regulations and could be readily attained; that, going beyond this, definitions for different grades of recycled aggregates could be included, or that a tax relief or carbon credit should be applied to the use of secondary or recycled aggregate to encourage their use (over and above these being exempt). This respondent did not however provide commentary on how this might be relevant to SAT, given the expectation that tax would usually be paid by the quarry operator, or whether another relevant tax had been identified.

An individual suggested that recycled aggregate producers should be required to have a license to avoid the risk of primary aggregate being sold as recycled.

Although agreeing with the exemption, representatives of the primary aggregates industry noted that the production and processing of recycled aggregates can have a negative environmental impact, particularly in built-up areas.

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?

Number of respondents: 11

Eight respondents offered specific views on this question, with another two referring to earlier answers

Three primary aggregates industry respondents favoured exemptions consistent with those for UKAL, with a view that these worked well, were understood and that changes could have unintended consequences across several industries.

On the other hand, an environmental organisation set out its overall view that there should be minimal or no tax exemptions, whilst an individual also did not consider that there should be any exceptions, noting that aggregate used for construction purposes should be within the scope of the tax to avoid confusion and fraud.

Other respondents focused on more specific issues.

- An industry body called for glass manufacturers to continue to be exempt from tax as they were in UKAL, reflecting the range of policies and incentives already in place to reduce the use of virgin materials.
- A primary aggregates industry respondent called for an exemption related to any aggregates being extracted for other reasons, where any subsequent usage is intended solely to reduce costs.
- One waste and resource management respondent suggested increasing the available supply of feedstock for recycled aggregate by exempting historic industrial spoil heaps from the tax, as well as ensuring that other local and national government policies support the reuse and recycling of this material.
- An individual called for an exemption for filler that goes into asphalt production, which they did not consider to be an aggregate. This respondent also called for china clay aggregates and slate aggregates to be brought into the scope of the tax, which is not currently the case for UKAL.
- A local authority respondent referenced a call for an exemption for local authority quarries where the products are used for infrastructure maintenance, whilst another raised a more general point around situations where primary aggregate was being used for public benefit – e.g., to develop active travel routes.

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

Number of responses: 11

No specific suggestions were made in any response. Four respondents, primarily related to the primary aggregates industry, expressly stated that exceptions were not required, whilst one environmental group restated its high-level view that the devolved tax should have minimal or no exemptions.

Six respondents were unsure, without comment.

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.

Number of responses: 6

Due to an error, a box was not available in Citizen Space to allow for responses to be provided. This analysis is therefore based on the views of those respondents who set out their views in separately provided hard copy responses.

Two environmental organisations picked up broadly comparable points, with one restating calls for minimal or no tax exemptions and another calling for taxation of all primary materials, regardless of their intended use.

One of the tax, accountancy or law organisations considered that, should the Scottish Government wish to take a distinct approach, there may be opportunities to establish a more precise, clear and Scottish-specific definition of what is chargeable in legislation, with the means to amend that legislation as time and geology permits. This would assist in reducing the need to consider exemptions.

On the other hand, two primary aggregates industry respondents did not see any scope for simplification, with one highlighting the UK Government's relatively recent consultation on simplifications and changes to the UKAL. These had been intended to assist in tackling issues around the impact of borrow pits on the wider market for construction aggregates and to simplify the rules around infrastructure works. One of the tax, accountancy and legal organisations also supported consistency with the UKAL reliefs to prevent burdens on business and reflect the principles of certainty, convenience and efficiency.

Reliefs

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?

Number of responses: 9

Nine respondents commented on this question. Six respondents, representing the majority view and including primary aggregates industry and other industry organisations and an individual, were in favour of retaining all UKAL reliefs in the devolved tax. Points raised in support of this included that the reliefs had been established for good reason, that they had resulted from significant work over time and that consistency of approach would help to avoid creating distortions and provide stability and continuity for taxpayers.

In terms of potential new reliefs, one of the tax, accountancy or legal organisations noted the need to consider reliefs to prevent double taxation, while a primary aggregates industry respondent considered that a relief for the use of primary aggregate should be available where there are no available recycled aggregate options. This would be to prevent an unavoidable increase in costs. An individual respondent also suggested that a relief should be available where aggregate is

procured for use in major public infrastructure projects to release funds for use elsewhere.

No respondents explicitly stated that UKAL reliefs would not be appropriate, although one environmental group again set out its high-level view that the devolved tax should have minimal or no exemptions.

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

Number of responses: 10

One of the tax, accountancy or legal organisations noted that an exemption would be appropriate where non-liability is known at the start based on the type of material, whereas a relief would be appropriate where the use would only be known with certainty at a later point.

Other respondents did not directly answer the question, instead largely restating points raised in other questions. One respondent indicated they were unsure, without comment.

Two primary aggregates industry respondents restated their calls for consistency with UKAL, an environmental organisation reiterated its call for environmental considerations to be foremost in tax design, and two waste and resource management respondents again highlighted the proposal that, over and above an exemption, a relief or tax credit should be available for the use of recycled aggregates to help encourage uptake.

One of the individual respondents observed that if aggregate is used for construction purposes and is not recycled it should be taxed and that this would avoid having to consider use in industrial and agricultural processes. The individual also called for there to be fixed percentage for water relief.

Taxation of Exports

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

Number of respondents: 9

Three primary aggregates industry respondents and one individual explicitly called for tax not to be paid on international exports, maintaining current UKAL arrangements and avoiding placing Scottish producers at a competitive disadvantage. One of the individual respondents also reflected on the importance of competition, but without specifying a particular view on this issue.

Two respondents, one of the primary aggregates industry respondents and an environmental organisation, considered that tax should be paid as this would help to influence behaviour and given the environmental impact. Separately a waste and resource management respondent took a balanced position, noting the potential

environmental risks but recognising that this is a complex area that needs to be thoroughly considered.

Four respondents, including some already captured in the analysis above, reflected on the tax treatment of materials within the UK, with regard to issues around double taxation and the need to consider tax credits or reliefs where material was moved from or to Scotland. On this issue, two primary aggregates industry respondents called on the Scottish and UK Governments, Revenue Scotland and HMRC to agree rules that mean no site must deal with two taxes and two authorities for their production within the UK.

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

Number of respondents: 6

One waste and resource management respondent suggested without detail the application of a relief rather than an exemption for exports, based on evidence of use. The respondent noted that comparable changes would also be needed for UKAL.

One of the individual respondents did not consider that UKAL was achieving its objectives and called on the Scottish Government to consult with industry on the arrangements for the devolved tax, so as to avoid the same issues arising. No specific issues were highlighted for this question, but the respondent highlighted concerns about perceived unfairness in the relative tax treatment of different materials in other responses.

Two waste and resource management respondents again raised the point that there might be scope to offer a tax credit or relief for recycled aggregates, over and above any exemption. The value of any credit might depend on the environmental performance of the material.

One of the primary aggregates industry respondents stated that companies which exported from Scotland required clarity on this issue, whilst an environmental organisation restated the general view captured in other questions.

Advisory Group Discussion

Members discussed the case for various exemptions and reliefs at their second meeting. Consideration was given to a range of issues, including: the evidence base on existing UKAL arrangements; the definition of recycled aggregate; the current exemption relating to glass; the case for exempting local authorities that produce aggregates from their own quarries for road maintenance and whether an exemption for ball and china clay is required in the Scottish context. The group also discussed the emergence of novel technologies and new plants for producing recycled aggregates and the importance of considering links between SAT and Scottish Landfill Tax.

There was a consensus view from those expressing an opinion that the exemptions and reliefs provided for in UKAL should be retained, while also noting the importance of keeping these under review to reflect innovation in new technologies, processes and materials.

More detailed commentary on these points is set out in the published minutes.

Scottish Government response

With one exception, the Scottish Government has decided to mirror UKAL exemptions in the Bill, including the revised construction related exemptions introduced on 1 October 2023. As ball and china clay is not produced in Scotland, the Scottish Government has decided that there is no need to exempt the spoil from its extraction. Ball and china clay will continue to be exempt, on the basis that they are unlikely to be used as aggregates if imported into Scotland. No new exemptions are proposed.

The Scottish Government has also decided to include in the Bill the tax credits provided for in UKAL. For the purposes of SAT, tax credits (rather than exemptions) have been chosen where the end use of the aggregate might be uncertain at the point of exploitation, as the use of an exemption in that situation would give rise to a greater tax compliance risk.

As part of this, the Scottish Government intends to provide a tax credit for material which has been exported from Scotland to outside of the UK. A tax credit will also be available where material is moved from Scotland to the rest of the UK. This mirrors the tax treatment set out for UKAL in the Scotland Act 2016 provisions, relating to movements of aggregate from the rest of the UK to Scotland.

Broadly, the chosen exemptions and reliefs serve to remove from the scope of the tax: secondary or recycled aggregates, or rock, sand and gravel that would not generally be used as granular or particulate material in construction as concrete, mortar, roadstone, asphalt or drainage courses, or as construction aggregates. Further detail on the policy rationale for the chosen exemptions and tax credits is set out in the Policy Memorandum for the Bill.

In particular, the Scottish Government intends to exempt recycled aggregate in order to incentivise its use. However, as quarry operators would usually be expected to be liable for SAT, the Scottish Government does not consider that it is feasible to also consider offering a tax credit the use of recycled aggregate. In the 'Delivering Scotland's circular economy – route map to 2025 and beyond' consultation the Scottish Government has however set out a number of measures to support and encourage sustainable construction.

The Scottish Government notes the suggestion that a tax relief should be available where aggregate is procured for use in public infrastructure projects. However, the Scottish Government considers that the public sector has an important role in

supporting the circular economy and should be subject to the same conditions and incentives regarding aggregate use as the private sector.

The Scottish Government also notes the suggestion that a tax relief should be available where there are no recycled aggregate options. The Scottish Government considers that this would add a significant degree of complexity to the tax, reduce certainty regarding the tax landscape for producers and reduce the impact of the tax in encouraging alternatives to primary aggregate. However, the Scottish Government will keep under review the impact of SAT.

3.4 Tax Rates

Chapter 4 of the consultation paper sought views on the factors that the Scottish Government should take into consideration when setting a rate for tax, and on the options and processes that might apply to this. Views were also sought on whether the Bill should provide Ministers with the flexibility to introduce more than one rate of tax, to allow for differential charging in future to take account of different circumstances and impacts.

The consultation document made clear that, although the Bill would provide enabling powers related to the setting of a tax rate or rates, no specific rate of tax would be set out on the face of the Bill.

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

Number of responses: 18

Respondents set out a range of perspectives and propositions in answering this question.

Two primary aggregates industry respondents and one individual directly or indirectly called for parity with UKAL rates. Another primary aggregates industry respondent called for the relevant factors, direction and expected tax rate to be specifically discussed as part of the consultation.

Other respondents considered more generally that UKAL arrangements should be taken into account. One of the tax, accountancy or legal organisations noted that any deviation from the UK rate may cause market distortion and that consideration should thus be given to the impact of this on the Scottish aggregates industry. Another reflected more generally that consideration would need to be given to revenue yield, behavioural effects and environmental considerations, balanced with the resources to be invested in administering the tax.

Six respondents, including environmental, waste and resource management and other industry respondents reflected more generally on the need for the tax rate to be high enough to influence behaviour or reflect environmental damage. Some were explicit in their view that the UKAL rate was too low to deliver the tax's environmental objectives and two called on the UK and Scottish Governments to work together to set a higher rate of tax across the UK. This took account of the potential for market distortion discussed above. One of the environmental organisations called for tax revenues to be hypothecated and spent on projects to deliver environmental enhancements and/or circular economy ambitions.

Four respondents, including two waste and resource management, one primary aggregates industry and one local authority respondent called for geographic factors to be considered, in particular the impact of tax in remote and rural areas which may have no, or low, access to recycled aggregate. Increases in tax could result in increased prices for primary aggregates if options to source alternatives are limited.

Separately, one of the primary aggregates industry respondents asked that quarry operators' responsible approach be "applauded and recognised" in the new structure. Another challenged the consultation paper's description of the environmental effects of quarrying, pointing to the relevant regulatory environment and the industry track record of restoration.

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?

Number of responses: 13

In addition to the 13 direct responses, the views of another three respondents, set out in response to another question, are considered here. Views were split into three broad groupings.

Five respondents, two from the primary aggregates industry, one of the waste and resource management organisations, and two individuals did not support the inclusion of powers to set more than one rate, noting concerns about potential market distortion and complexity or offering a general comment about the need to maintain parity with UKAL structure. Some of these respondents noted however that it was not possible to comment in detail on this without a specific proposal.

Whilst not rejecting the idea outright, one primary aggregates industry respondent noted that this was a substantial suggestion that required careful consideration, considering geology, transport and societal needs. The respondent did, however, express scepticism about viability and concerns around increased administrative and compliance costs.

On the other hand, six respondents, from waste and resource management and environmental organisations and local authority interests, expressed support, though each for different reasons. Proposals raised included that there could be a lower rate for non-profit making uses and that different rates could apply on the basis of local circumstances, geography or application, along with a more general suggestion that different rates of tax could potentially reflect environmental damage or performance. In response to an earlier question, one of the environmental respondents had also suggested that there was a case to consider a separate and lower rate for recycled aggregates and noted its view that a flat rate of tax would not incentivise environmental performance.

Three respondents took a more nuanced approach. One primary aggregates industry respondent was unsure, noting that this approach was possible but would need to be product and context specific. One of the tax, accountancy or legal organisations noted that multiple rates could be provided for but would add to complexity, particularly in terms of cross-border arrangements and may inadvertently lead to compliance issues. A single flat rate was as such ideal, though a percentage approach rather than a flat tax rate might be considered over time. Another organisation from this grouping noted that including more than one rate could potentially allow for incentives to be put in place to suit the prevailing market, industry conditions and policy objectives, but that having a flat rate would be ideal in terms of minimising administrative complexity.

Another respondent indicated yes but focused their remarks on the case for increasing the tax rate in general.

Advisory Group Discussion

There was limited discussion of rate setting during meetings of the advisory group, primarily during the third meeting. Discussion focused primarily on the potential implications if differential rates of tax were applied in SAT and UKAL, with representatives of the primary aggregates industry restating their concerns about this.

Scottish Government response

The Scottish Government welcomes the range of comments and views offered on the issue of tax rate setting.

As set out in the consultation document, no specific rate of tax will be set out in the Bill.

The Bill however provides for a regulation-making power to allow Scottish Ministers, with the approval of the Scottish Parliament, to set the tax rate or rates through secondary legislation. It also sets out that the tax will be chargeable by weight, with a rate or rates per tonne applied to all taxable material and provides the Scottish Ministers with power to make regulations regarding the calculation of the weight of aggregate.

For tax introduction, the Scottish Government intends to provide for a single tax band, matching the approach taken for UKAL. The provisions in the Bill would however allow the Scottish Ministers to introduce multiple tax bands in future. Overall, this approach is intended to provide certainty and stability for taxpayers, whilst also providing Ministers with the flexibility to consider the case for a multi-band system over time.

3.5 Sustainability Fund

Chapter 5 of the consultation paper provided an overview of the historic sustainability funds linked to UKAL and sought views on the creation of a new fund linked to the devolved tax.

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?

Number of responses: 16

Responses to questions A21 and A22 are considered together on the basis that views on the case for a sustainability fund also included reflections on the objectives of such a fund.

15 respondents offered views on these questions, with an additional respondent indicating there were no sure on whether a fund should be introduced.

The majority (ten) of respondents supported introducing a sustainability fund, but without consensus on the objectives. As some respondents highlighted multiple potential objectives, the analysis is not broken down by organisation type. However, in summary, suggested objectives included to:

- Support people in local communities, directly linked to the environmental and community effect of extraction. Supported projects could involve improving local amenity areas, sustainability or biodiversity.
- Address skills shortages within the sector, enhance consumer preference and awareness of recycled materials and support research and development programmes to foster innovation.
- Fund projects for community benefit which make better use of the infrastructure put in place for quarries, once they have been restored.
- Promote the quality and use of recycled aggregate to the construction sector;
- Reward good practice amongst operators in terms of environmental performance.
- Conserve or restore the natural environment, helping people in Scotland to access and enjoy nature and enabling people to learn about nature.

Two respondents who were supportive suggested that all tax revenues should be hypothecated to a sustainability fund.

The four respondents not in favour of a sustainability fund specified various reasons, including a perceived poor track record of the previous UKAL fund, concerns that development and administration of a new fund would add complexity and cost, and a general opposition to hypothecation.

One organisation, whilst not explicitly opposed, highlighted that the amount of funding would likely be much lower than in e.g., the Scottish Landfill Communities

Fund, and that the potential for the fund to have a tangible impact would be further limited by administrative costs.

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

Number of responses: 9

No consensus view emerged amongst those reflecting on the most appropriate model.

Two primary aggregates industry respondents noted that whilst a centrally run and operated fund would bring consistency, more local funds, either site-specific, or in a single planning authority area, might be closer to local communities and allow local residents to have their say. This latter point was picked up by a local authority respondent, along with one of the other industry respondents, which suggested allowing local authorities to administer funding as best suits their local needs and context.

One each of the tax, accountancy or legal, primary aggregates industry and environmental organisations highlighted the Scottish Landfill Communities Fund as a potential model or reference point, though with a need to make changes.

One of the primary aggregates industry respondents suggested that a grant-based fund might be most appropriate, and an individual suggested linking to some aggregate producers' existing community engagement projects.

Advisory Group Discussion

The case for a sustainability fund was considered at the fourth meeting of the advisory group. There was some support for a fund, as reflected in the consultation analysis above, and various suggestions as to what it might support. Industry representatives favoured a fund that allowed aggregate producers to contribute to local communities near quarries. However, a number of practical considerations and issues were raised, including in terms of administration and impact. More detailed commentary on these points of discussion is set out in the published minutes.

Scottish Government response

The Scottish Government recognises that respondents to the consultation offered broad support for some form of sustainability fund to be introduced.

However, following careful consideration of the responses received and discussion at the advisory group, the Scottish Government has not included specific provisions related to a sustainability fund in the Bill.

This is on the basis that there is not at present a clearly defined and agreed focus for any such fund, taking into account the broad range of potential objectives highlighted and the significant issues to be considered in terms of the likely impact. In addition, concerns over the viability of a fund, in light of the expected revenues and likely administration costs, were also an important consideration.

The Scottish Government will keep this under consideration when SAT is operational. The creation of a fund would be a Scottish Government spending commitment and would therefore have to be considered as part of the wider Scottish Government budget setting process.

4. Part B – Operational Considerations

Part B of the consultation covered a range of operational issues, with views sought on a range of more detailed proposals related to tax collection and management.

Part B – Operational Considerations:

- Chapter 6: Registrations (B1-B7)
- Chapter 7: Tax returns and payments (B8-B11)
- Chapter 8: Compliance (B12-B14)
- Chapter 9: Tax Avoidance and Evasion (B15-B16)
- Chapter 10: Penalties (B17-B18)
- Chapter 11: Dispute Resolution (B19-20)

A single summary of relevant advisory group discussions and Scottish Government decisions related to all operational issues is set out at the end of this section. In a number of areas, further consultation and stakeholder engagement will be undertaken by the Scottish Government and by Revenue Scotland, to support secondary legislation and other work required in preparation for tax introduction.

Registration

Chapter 6 of the consultation paper outlined that those exploiting aggregate would be required to register for the devolved tax when it is introduced and that registered taxpayers would be required to give notification when they intend to cease commercial exploitation. Views were sought on how the process of site registration and taxpayer registration, and on-site administration overall, could be streamlined.

Views were also sought on the appropriate approach for anyone commercially exploiting only exempt aggregate not needing to register and on how the administration of cross border movements of aggregate can be made convenient and effective.

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

Number of responses: 8

Two primary aggregates industry organisations called for all extracting and processing sites to be registered, including currently unregistered temporary extraction sites known as “borrow pits”, which were considered to create unfairness in the market when engaging in commercial activity. Another suggested that existing data sources such as planning permissions, the rating valuation roll, and other registers of consent should help identify those who should have to register for tax.

One of the tax, accountancy or legal organisations and a primary aggregates industry respondent suggested that the registration process be as close to the existing UKAL as possible to minimise administrative disruption.

One of the environmental organisations suggested considering the environmental performance credentials of businesses seeking to register. Other points from tax, accountancy or legal organisations included a suggestion that Revenue Scotland be given a limited period in which to decide whether to register a taxpayer, and separately that SEPA might be responsible for registration and policing, with Revenue Scotland only responsible for processing the levy and handling the payments.

An individual questioned whether quarry operators in the rest of the UK would comply with any requirements to register in Scotland

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

Number of responses: 4

Two respondents from the primary aggregates industry considered that the tax should be administered online, and that devolution presented a good opportunity for digitalisation. Another indicated that they could not identify any opportunities, whilst an individual suggested that the tax be collected by HMRC.

Declaring exempt aggregate

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

Number of responses: 10

Three primary aggregates industry respondents considered that all sites should be registered, even if they only produce exempt aggregates, and submit tax returns.

Another two respondents made suggestions around a lighter-touch arrangement for producers of exempt aggregates, with a primary aggregates industry respondent suggesting that there should be a publicly available one-off notification and confirmation of exemption and one of the tax, law or legal respondents proposing an annual confirmation statement that a taxpayer has not exploited anything beyond exempt aggregates.

Separately, one of the waste and resource management respondents recommended that requirements around the registration and accreditation of recycled aggregate suppliers should be strengthened to attain a more authoritative position with regards to promoting circular economy objectives. This would allow the Scottish Government to collaborate with the industry on future incentives that promote the circular economy and linked to the respondent's other proposals around providing tax credits for the use of recycled aggregates.

One of the tax, accountancy or legal organisations considered that, should the Scottish Government wish to take a different approach, there would be scope to take a simpler approach in the legislation, setting out the specific materials to be taxed and only requiring registration for sites producing aggregates meeting those

definitions. This would remove the need to register sites producing or using exempt materials.

An environmental organisation again suggested that consideration be given to the environmental performance credentials of businesses or persons seeking to register, whilst individual respondents commented on the resources available to police any regime and, separately, repeated an earlier suggestion for HMRC to administer the tax.

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?

Number of respondents: 7

No key themes arose from the responses to this question, which were from respondents spread across different groupings.

Suggestions included that individual local authorities hold strict, consistent and timely controls over individual site operation which might assist Revenue Scotland. In addition, information might be collected on: the environmental attributes of sites and the environmental performance of operators, especially if different rates were to apply; on site plans, projected tonnages, description of products sold from site; the products being manufactured which have recycled alternatives; and the type of aggregate to be exploited and its proposed use.

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

Number of responses: 5

Two primary aggregate industry respondents highlighted their call for publication of a list of all consented sites to address what was seen as unfair or illegal competition from “borrow pits”. An individual respondent suggested that investing in staff skills could help to improve the collection and usage of information.

Separately, an environmental organisation considered that SEPA might be best placed to offer guidance, whilst an individual called for investment to be made in staffing. An individual respondent noted support for continued use of quarterly returns and made no suggestions for change,

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

Number of responses: 3

No detailed views were provided on this question. Two of the three responding organisations were from primary aggregate industry respondents, who did not consider that other registration processes would be relevant, whilst an individual considered that there would be but did not offer comment.

Whilst not specifically in response to this question, a local authority respondent suggested in its response that there may be opportunities for collective sharing of information to assist the operation of the devolved taxation system.

Cross border movements

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

Number of responses 7:

Four respondents, including representatives from the primary aggregates industry, and tax, accountancy or legal organisations, highlighted the benefits in terms of administration, tax returns and record-keeping of minimising complexity and maintaining consistency with the current UKAL rules.

Another of the tax, accountancy or legal organisations suggested that where companies have sites in Scotland and in the rest of the UK, it would be helpful if HMRC and Revenue Scotland could work together such that a business who has paid the levy in one country is automatically relieved from reporting paying tax in another.

A primary aggregates industry respondent suggested that producers should have the ability to claim a tax rebate based on set criteria, similar to a zero VAT rating on new residential developments, whilst an individual highlighted earlier comments about the willingness of operators based in the rest of the UK to register for SAT.

4.1 Tax Returns and Payments

Chapter 7 of the consultation paper outlined the intent that the tax return would be designed to help facilitate efficient and effective compliance, as well as making the transition for taxpayers from UKAL to the devolved tax as easy as possible. Proposals relating to specific aspects of the return and payment arrangements were then set out in detail.

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.

Number of responses: 11

Almost all respondents (nine) from across almost all groups explicitly agreed with the proposal to adopt a standard quarterly tax return cycle. One of the tax, accountancy or legal respondents suggested that, to increase choice and ease administration, VAT paying customers might wish to choose to follow their VAT quarterly return and payment cycle instead of the proposed quarterly tax return cycle for the devolved tax. Another noted an alternative view that it would be ideal if the arrangements for SAT were consistent with those for Scottish Landfill Tax. This would require transitional arrangements to bring businesses into line with standardised quarterly deadlines.

A further respondent is considered to be in agreement, but focused their remarks on the suggestion that producers of exempt aggregate should only have to provide an annual confirmation that they continue to produce exempt aggregate as opposed to having to make nil quarterly returns.

One individual respondent did not support adoption of a quarterly return cycle, on the basis that they considered that it would bring extra burden and costs.

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

Number of responses: 6

Four respondents, mainly involved in the primary aggregates sector, suggested that tonnages for taxable, relieved, and exempt supplies as well as moisture content claimed should be included, whilst another simply stated that the information requirement should be the same as for UKAL,

A local authority respondent considered that only the total tonnages of purchased aggregate should be included, whilst an individual suggested that the requirements be kept simple, but without specific comment.

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?

Number of responses: 5

One of the tax, accountancy or legal organisations suggested that supporting information should be consistent with that which Revenue Scotland would rely on in respect of a future investigation and should be kept for six years, consistent with UKAL regulations, to ensure consistency and aid compliance.

One primary aggregates industry respondent suggested that suppliers should be able to deduct the relevant amount of relief they feel is appropriate, with relevant justification and not pay any tax up front, rather than pay the tax then apply for a tax relief. Another noted that as long as the relevant criteria and information are requested and supplied, the same checks need to be done at some point.

An environmental organisation proposed that having differential rates in respect to environmental damage may cause taxpayers to reconsider their approach and better reflect their environmental performance in supporting accounts and documentation. An individual commented that the arrangements should be kept simple.

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

Number of responses: 2

Only two respondents, both from the primary aggregates industry, answered this question. Neither foresaw any issues.

4.2 Tax Compliance

Chapter 8 of the consultation outlined Revenue Scotland's current investigative and enforcement powers, in addition to those to impose civil penalties and interest. It proposed that the same investigatory and enforcement powers would be available to Revenue Scotland in relation to the new devolved tax. These powers were outlined in detail, and views invited on specific aspects.

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

Number of responses: 11

Nine respondents from a range of respondent groups agreed that Revenue Scotland should have these powers.

Only two respondents, one of the primary aggregates industry respondents and an individual, said that Revenue Scotland should not have the suggested powers, although no justification was given for this position.

Amongst those in support, two respondents from the primary aggregates industry highlighted the importance of effective enforcement in dealing with their concerns around "borrow pits" and noted the value of there being a post-implementation working group involving Revenue Scotland and the industry to assist with this.

An environmental organisation and two tax, accountancy or legal organisations highlighted a theme around resourcing and relevant powers, including suggestions that Revenue Scotland might need to have regulatory powers to liaise and work with other Scottish Government organisations such as SEPA, or that SEPA might be best placed to lead on 'front-line' compliance including enquiries and inspections. One of these organisations also highlighted the importance of any sanctions being sufficiently robust to act as a deterrent.

Another tax, accountancy or legal organisation suggested that a three-year enquiry period was excessive when information is being returned quarterly and suggested a shorter time limit of one year. This would support the principles of both certainty and efficiency.

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

Number of responses: 4

Two primary aggregate industry respondents considered that having a register of sites may help bring transparency to the sector by enabling customers to check they are buying from a legitimate source.

The other two respondents did not offer any specific suggestions, with an individual simply indicating agreement and a primary aggregates industry respondent warning

that it will be difficult to police the sector as an end user could extract material from adjacent land, with no way of identifying this.

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?

Number of responses: 5

One primary aggregates industry respondent suggested that better policing might be achieved by focusing on the movement of materials between sites of generation and use, mostly by tipper trucks. Another did not have specific views, except to note the potential benefits of joint working.

One of the tax, accountancy or legal organisations highlighted that any differences in tax compliance relative to UKAL could potentially create tax evasion opportunities, whilst an environmental organisation noted that additional consideration might be required if the tax was intended to take account of environmental damage and environmental performance. The other respondent answered yes but did not put forward specific suggestions.

4.3 Tax Avoidance and Evasion

Chapter 9 of the consultation paper underlined the Scottish Government's commitment to tackle tax avoidance in relation to Scotland's devolved taxes and confirmed that the Scottish General Anti-Avoidance Rule (GAAR) will apply to the devolved tax

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?

Number of responses: 7

A range of potential issues were raised in responses, including concerns from primary aggregates industry respondents about: planning permissions for projects being artificially expanded to facilitate “borrow pits” and thus avoiding UKAL, and the sale of aggregate being billed as another service to avoid tax.

Tax, accountancy or legal respondents highlighted the potential for any rate divergence within the UK to encourage “rate shopping” or cross-border avoidance; along with concerns about the policing of cross-border movements more generally; the potential impact of complexity; and under-reporting (both of aggregates tax and, as a consequence, VAT).

On mitigation, tax, accountancy or legal respondents reflected on the importance of reducing complexity, with one suggesting that defining specific chargeable aggregate and removing the need for exemptions and reliefs would reduce the likelihood of taxpayers making mistakes. Another considered that clarity of policy and legislative provisions would be necessary to drive compliance, and taxpayers, especially those who operate across borders, will need to be able to understand the interactions between SAT and UKAL.

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.

Number of responses: 9

Responses to this question picked up on two separate themes. Some respondents reflected on the relevance of the existing powers available to Revenue Scotland through the RSTPA 2014, whilst others commented on the existing arrangements for UKAL. Others simply responded yes, no or not sure without adding further context to indicate which aspect had been considered.

Two of the tax, accountancy or legal organisations considered that existing powers available to Revenue Scotland would be sufficient to deal with tax evasion, though one stressed that this was subject to there being adequate resource and effective policing. The importance of effective policing was also picked up by a primary aggregates industry respondent, who agreed that existing powers were sufficient, though without further comment.

A waste and resource management respondent considered that existing powers would be sufficient but did not expand on their answer.

Two primary aggregates industry respondents did not indicate a view either way but highlighted their calls for the creation of a register of all sites including those producing exempt aggregates, and establishment of means of reporting unregistered sites. This would be a useful way for the Scottish tax to be seen as distinctive, more transparent and open than UKAL. Another respondent that answered “no” focused their criticism on current UKAL arrangements and stated that tax evasion was something that should be addressed from the outset of the Scottish system.

Separately, another of the tax, accountancy or legal respondents suggested that the common law offence of fraud was an effective offence and that a new statutory offence was not needed.

4.4 Penalties

Chapter 10 of the consultation outlined the penalties that apply to existing fully devolved taxes in order to encourage compliance and deter non-compliance. It then set out the proposal to adopt this penalty framework for the new devolved tax, with minor modifications to some provisions. A summary was provided of the proposed penalties.

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

Number of responses: 5

All respondents, primarily tax, accountancy or legal organisations, but also with one primary aggregates industry and one waste and resource management respondent agreed with the proposed list of penalties, though one commented that the proposed penalties did not appear to address fraud.

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

Number of responses: 3

No specific suggestions for other civil penalties were offered in responses.

4.5 Dispute Resolution

Chapter 11 of the consultation paper outlined proposals for taxpayers to resolve disputes when they disagree with a decision made by Revenue Scotland. Broadly the proposal was for the rules regarding reviews, appeal and mediation to be consistent with those in place for the other devolved taxes.

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

Number of responses: 5

Two respondents, one from the primary aggregates industry and tax, accountancy or legal groupings, agreed with the proposals outlined in the consultation.

Separately, one of the tax, accountancy or law respondents suggesting that it would be worth considering the introduction of legislation to specifically allow for postponement of tax pending appeal against assessment, or amendment of return, in keeping with arrangements for Land and Buildings Transaction Tax, and most UK taxes.

Two other respondents indicated that they were not sure.

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

No suggestions were offered in response to this question.

4.6 Part B Considerations - Advisory Group discussion

There was discussion of operational considerations at the fourth meeting of the advisory group. Topics of discussion included: the importance of ongoing dialogue between HMRC and Revenue Scotland; the potential merit in Revenue Scotland delegating certain functions to other public bodies such as SEPA, and related considerations around legal gateways; the value of a forum to discuss issues relating to the tax once introduced; the importance and challenges of addressing unregistered primary aggregate production and the importance of clear communication and ongoing engagement to raise awareness and develop Revenue Scotland guidance.

4.7 Part B Considerations - Scottish Government response

The Scottish Government welcomes the views set out in responses to these questions. In line with the approach taken for the existing devolved taxes, much of the technical detail regarding tax administration will be set out in secondary legislation or by Revenue Scotland. The Scottish Government will work with Revenue Scotland to develop the detail, including undertaking a further programme of stakeholder engagement.

- The Bill confirms that Revenue Scotland will administer the collection and management of the tax. The tax authority will consult with stakeholders on the development of the tax return and registration and on relevant compliance related matters.
- The Scottish Government intends that a person who produces taxable aggregate must be registered, and that registered persons must submit tax returns and pay tax in such periods and in such a manner as are determined by the Scottish Ministers in regulations.
- Those businesses who produce or intend to produce only certain types of exempt aggregate will be required to make a notification to Revenue Scotland but will not be required to submit tax returns. This approach is broadly in line with the current administrative requirements for UKAL taxpayers.
- Revenue Scotland will be required to keep and maintain a register of taxpayers for the purpose of collecting and managing SAT. Information from this register will be published, which will help provide transparency for Revenue Scotland, taxable persons and the public. Revenue Scotland will consult with stakeholders while determining the form and manner of the information to be published, again exemplifying a shared commitment to engagement.
- Where penalties listed in RSTPA 2014 apply to all devolved taxes, the Bill introduced to Parliament provides that they will also apply to SAT.
- The Bill also creates penalties in RSTPA 2014 that do not apply to the other devolved taxes. These are penalties payable for failure to provide a security, failure to notify Revenue Scotland of the production of exempt aggregate when required, failure to appoint a tax representative in accordance with regulations when required, incorrectly declaring that aggregate will be used in an industrial or agricultural process for which a tax credit is claimed and failure to notify of cessation of group treatment. These additions replicate penalties found in UKAL.
- The Bill includes a provision which may impose a charge on those who purchase taxable aggregate from unregistered suppliers.

5. PART C: Impact Assessments

Chapter 12 of the consultation sought views on the Impact Assessments to be considered as part of work to develop the Bill.

Business and Regulation

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

Number of responses: 2

Both responses to this question came from primary aggregates industry respondents. One noted the potential for economic impact if changes to the current system are introduced without adequate consideration of foreseeable impacts and unintended consequences. The other highlighted their view that the current UKAL scheme is open to non-declaration of aggregate sales, and adds cost to aggregates for which there is no viable recycled alternative. This could be improved.

Findings from the analysis of responses to questions throughout the consultation also informed the BRIA.

Child Rights and Wellbeing Impact Assessment

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?

Number of responses: 3

Two primary aggregates industry respondents advised that some aggregates producers' apprenticeship schemes could be impacted if the devolved tax severely impacted them and highlighted the potential value of linking in with the aggregate industry's "Minerals Matters" initiative as development progresses. An environmental organisation suggested that the tax, given appropriate objectives and focus on the environment, could have a positive impact in this area.

Environment

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?

Number of responses: 6

Comments from four primary aggregates industry respondents included: the need to consider the environmental impacts that can arise from aggregates in a holistic way, including considering the impact of transporting recycled materials; the potential for the proposed register of taxpayers to have a positive impact by helping to address the issue of both unregistered sites and borrow pits, where aggregate is extracted

and used without tax due being paid; the potential benefit from introducing a sustainability fund; and the potential effects of a new or differential tax rate being set.

A waste and resource management respondent noted the potential environmental impact of not utilising available recycled materials or making their use uneconomic, whilst an environmental respondent noted that the positive or negative impact would depend on how the tax is implemented.

Equality

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)?

Number of responses: 4

Of the four responses, three advised that they felt the proposals for the tax would have no impact. An environmental group considered that the tax could have a positive impact with the appropriate objectives and with the factoring in of concerns around environmental damage and performance.

Fairer Scotland Duty

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)?

Number of responses: 5

Three respondents were not aware of any potential impacts.

One of the environmental respondents again noted that the proposals had the potential to have a positive impact, depending on the finalised objectives for the tax.

One primary aggregates industry respondent observed that any negative employment impacts on Scottish operators arising from the new tax would be disproportionately felt in rural and remote areas, which may not have many alternative jobs at a similar level of skill and earnings, whilst another highlighted the potential impacts of any rate divergence for companies located close to the border with England.

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?

Number of responses: 5

A local authority and a primary aggregates industry respondent considered that the proposals could have a negative impact on the islands, noting the more limited options for recycled alternatives and the potential need to import more aggregates.

One environmental organisation felt the proposals could have a positive effect on island communities depending how they were taken forward.

Scottish Government response

The final Impact Assessments published alongside the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill are available at the [Scottish Government Website](#).

6. Annex A - Advisory Group

Background

In early 2023, taking consultation feedback and stakeholder views into account, the Scottish Government concluded that further work was needed to ensure that decisions on policy positions for the devolved tax were based on a further programme of stakeholder engagement. To support this engagement process an advisory group was convened.

Membership

The membership of the advisory group was designed to provide a broad range of subject matter expertise and perspectives, and its terms of reference was framed to ensure it had the appropriate scope to consider and share its reflections.

Members included aggregates industry representative bodies, aggregates producers (both new and recycled materials), aggregates consumers (including key public sector bodies), corporate stakeholders with an interest, and environmental organisations.

The group was chaired by a senior Scottish Government official from the Land and Environmental Taxation Division in the Tax and Revenues Directorate.

Meetings

The group has met on five occasions in 2023, with each meeting focused on a key issue requiring detailed consideration to help develop policy positions and, in turn, Bill provisions.

At the first meeting, members discussed and agreed ways of working, heard more about the aggregates sector in Scotland and were updated on the policy development work on the devolved tax. At subsequent meetings members discussed a series of key issues which the Scottish Government considered to require further detailed consideration in order to help develop and refine policy positions.

A summary of each meeting is provided below; as are full notes from the advisory group meetings.

First Meeting – 2 March 2023

Following opening remarks from Tom Arthur MSP, Minister for Community Wealth and Public Finance, there were a series of presentations, including background regarding aggregate production in Scotland and the context for developing a devolved tax. The meeting also provided an opportunity for members to discuss initial views on some key issues.

Second Meeting – 24 March 2023

At the second meeting members discussed possible definitions of “aggregate” and “commercial exploitation” that could be used for tax purposes, as well as the case for various tax exemptions and reliefs.

Third Meeting – 19 April 2023

At this meeting, members discussed the potential tax treatment of imports and exports of aggregates to and from Scotland, and prospective approaches to the setting of tax rates.

Fourth Meeting – 5 May 2023

Members discussed a range of issues related to the potential establishment of a sustainability fund linked to the tax, as well as the prospective approach of Revenue Scotland to tax administration.

Fifth Meeting – 12 October 2023

At this meeting, the Scottish Government provided an update on the work undertaken since the last meeting and a summary of the key messages and points that the Scottish Government had taken from the first four meetings. This allowed for further discussion on various issues.

7. Annex B – List of Consultation Respondents (organisations)

The following organisations and individuals responded to the consultation. Individual respondents are named where permission was provided.

- Brewster Brothers
- British Aggregates Association
- British Ceramic Confederation
- British Glass
- Chartered Institute of Waste Management
- Convention of Scottish Local Authorities
- Enva Scotland
- Faculty of Advocates
- Friends of the Earth Scotland
- Institute of Chartered Accountants of Scotland
- Mineral Products Association Scotland
- Pat Munro Ltd
- Raeburn Brick
- Richard Bird (Retired, Formerly British Aggregates Association)
- Royal Society for the Protection of Birds
- Scottish Environment Link
- Scottish Environmental Services Association
- Shetland Islands Council
- SRMA (Scotland) Ltd, trading as Resource Management Association Scotland
- Tarmac
- The Chartered Institute of Building
- The Chartered Institute of Taxation

All responses, where stakeholders agreed to their publication are available at:

[Developing a Scottish tax to replace the UK Aggregates Levy - Scottish Government consultations - Citizen Space](#)



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Any enquiries regarding this publication should be sent to us at

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