

**Copies of correspondence sent and/or received by the Cabinet Secretary for Finance and Economy between 1 January 2021 and 27 February 2023:**

**Documents considered for release:**

**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** Minister for Green Skills, Circular Economy and Biodiversity

**Sent:** 01 March 2023 14:05

**To:** DL Cabinet Secretaries <[Redacted]@gov.scot>; DL Ministers <[Redacted]@gov.scot>

**Cc:** Huyton H (Harry) <[Redacted]@gov.scot>; Minister for Green Skills, Circular Economy and Biodiversity <MinisterGSCEB@gov.scot>

**Subject:** Ministerial Statement - Update on Scotland's Deposit Return Scheme

Good afternoon

Please find attached a copy of Ms Slater's statement on Scotland's Deposit Return Scheme scheduled for 15:20 this afternoon.

[Redacted] - Private Secretary to the Minister for Green Skills, Circular Economy and Biodiversity - Lorna Slater MSP

Scottish Government | St Andrew's House, Regent Road, Edinburgh EH1 3DG |

Mob: [Redacted] | Email: MinisterGSCEB@gov.scot

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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** Minister for Green Skills, Circular Economy and Biodiversity

**Sent:** 28 February 2023 07:12

**To:** Carmichael K (Katriona) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>

**Cc:** Director of Environment & Forestry <director.enfor@gov.scot>; Huyton H (Harry) <[Redacted]@gov.scot>; Minister for Green Skills, Circular Economy and Biodiversity <MinisterGSCEB@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>

**Subject:** FW: Letter To Cabinet Secretary for Finance and the Economy from CSL

Katriona

[Redacted]

Sharing the attached letter from CSL to Ms Forbes.

[Redacted] - Private Secretary to the Minister for Green Skills, Circular Economy and Biodiversity - Lorna Slater MSP

Scottish Government | St Andrew's House, Regent Road, Edinburgh EH1 3DG |  
Mob: [Redacted] | Email: MinisterGSCEB@gov.scot

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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery

**Sent:** 28 February 2023 06:53

**To:** Minister for Green Skills, Circular Economy and Biodiversity  
<MinisterGSCEB@gov.scot>

**Cc:** Deputy First Minister and Cabinet Secretary for Covid Recovery  
<DFMCSCR@gov.scot>

**Subject:** FW: Letter To Cabinet Secretary for Finance and the Economy

[Redacted],

For awareness ahead of Cabinet today.

[Redacted]

[Redacted] | Finance and Economy Team Leader | Office of the Deputy First Minister and Cabinet Secretary for Covid Recovery – John Swinney

St Andrew's House | Regent Road | Edinburgh | EH1 3DG | Tel: [Redacted] | Mob: [Redacted] | Email: DFMCSCR@gov.scot

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**From:** David Harris <[Redacted]@Circularityscotland.com>

**Sent:** 27 February 2023 22:23

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery  
<DFMCSCR@gov.scot>

**Cc:** [Redacted] <[Redacted]@Circularityscotland.com>; [Redacted]  
<[Redacted]@Circularityscotland.com>

**Subject:** Letter To Cabinet Secretary for Finance and the Economy

Please find attached a letter addressed to Ms Forbes from Circularity Scotland, the Scheme Administrator for Scotland's Deposit Return Scheme.

**David Harris**

Chief Executive

T: [Redacted]

Website: <https://circularityscotland.com/>

Follow us: LinkedIn & Twitter



**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** Minister for Green Skills, Circular Economy and Biodiversity

**Sent:** 13 February 2023 15:47

**To:** Cabinet Secretary for Finance and Economy <CabSecFE@gov.scot>

**Subject:** RE: Deposit Return Scheme

Thanks [Redacted].

[Redacted]- Private Secretary to the Minister for Green Skills, Circular Economy and Biodiversity - Lorna Slater MSP

Scottish Government | St Andrew's House, Regent Road, Edinburgh EH1 3DG |

Mob: [Redacted] | Email: [MinisterGSCEB@gov.scot](mailto:MinisterGSCEB@gov.scot)

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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** Cabinet Secretary for Finance and Economy

**Sent:** 13 February 2023 14:23

**To:** Minister for Green Skills, Circular Economy and Biodiversity <MinisterGSCEB@gov.scot>

**Cc:** Cabinet Secretary for Finance and Economy <CabSecFE@gov.scot>

**Subject:** FW: Deposit Return Scheme

[Redacted],

I appreciate you've already had sight of this email earlier today but I wanted to flag that this was also sent to Ms Forbes' MSP account.

Thanks

[Redacted]

[Redacted] Finance and Economy Team Leader | Office of the Deputy First Minister and Cabinet Secretary for Covid Recovery – John Swinney

St Andrew's House | Regent Road | Edinburgh | EH1 3DG | Tel: [Redacted] Mob: [Redacted] Email: DFMCS@gov.scot

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[Redacted – Regulation 10(5)(F) – Third Party Interest]

**From:** [Redacted] <[Redacted]@gov.scot>

**Sent:** 05 May 2022 14:43

**To:** Minister for Green Skills, Circular Economy and Biodiversity <MinisterGSCEB@gov.scot>

**Cc:** Cabinet Secretary for Finance and Economy <CabSecFE@gov.scot>; Cabinet Secretary for Net Zero, Energy and Transport <CabSecNetZET@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Communications Net Zero & Rural Affairs <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] (Circular Economy) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Huyton H (Harry) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; McFarlane J (John) (Special Adviser) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>

**Subject:** For clearance - SNIB funding - supportive quote

PO Minister for Green Skills, Circular Economy and Biodiversity,

The Scottish National Investment Bank is due to announce its funding for Scotland's deposit return scheme on Monday.

We have been asked to provide a supportive quote for the attached release, which will issue over the weekend under embargo.

Policy, Comms and SpAds have agreed the following – grateful if you could confirm the Minister is content.

Best,

[Redacted]

Circular Economy Minister Lorna Slater said:

“This is a tremendous vote of confidence in Scotland's deposit return scheme, which will be the first of its kind in the UK and one of the most environmentally ambitious and accessible in Europe. By capturing billions of bottles and cans every year for recycling, it will make an important contribution to our response to the climate crisis. I

look forward to working with Circularity Scotland as they use this funding to deliver Scotland's deposit return scheme, which will go live nationwide in August next year."

[Redacted] **Communications: News (Net Zero and Energy)**

Senior Media Manager

Scottish Government, St Andrew's House

e: [Redacted]@gov.scot

m: [Redacted]

**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** Minister for Green Skills, Circular Economy and Biodiversity

**Sent:** 01 December 2021 20:12

**To:** [Redacted] <[Redacted]@gov.scot>; Minister for Green Skills, Circular Economy and Biodiversity <MinisterGSCEB@gov.scot>

**Cc:** Cabinet Secretary for Net Zero, Energy and Transport

<CabSecNetZET@gov.scot>; Cabinet Secretary for Finance and Economy

<CabSecFE@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; DG Scottish

Exchequer Mailbox <DGScottishExchequer@gov.scot>; Director of Environment &

Forestry <director.enfor@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]

<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] (Circular

Economy) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]

<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]

<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]

<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]

<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]

<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; McFarlane J (John)

(Special Adviser) <[Redacted]@gov.scot>; Huyton H (Harry)

<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>

**Subject:** RE: Routine: Deposit Return Scheme - final UK Government position on treatment of VAT

[Redacted]

Ms Slater noted this update and is content with the recommendation – the signed letter that issued is attached for records.

Ms Slater commented that there is one element of the VAT implementation which she would like officials to pass on to CSL and that is that the IT system should be procured with the consideration that at some point in the future, perhaps when the UK comes to adopt a deposit return scheme or if Scotland was to become independent, that the IT system would have to be able to be changed to remove the VAT from it. This possibility should be considered in the procurement as we would hope the IT system would be with us for many years and we would hope that that changes to the VAT regime in the future could be accommodated in a straightforward way.

[Redacted] - Private Secretary to Lorna Slater MSP, Minister for Green Skills, Circular Economy and Biodiversity

Scottish Government | St Andrew's House, Regent Road, Edinburgh EH1 3DG |  
Mob: [Redacted] | Email: MinisterGSCEB@gov.scot

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**From:** [Redacted] <[Redacted]@gov.scot>

**Sent:** 01 December 2021 17:45

**To:** Minister for Green Skills, Circular Economy and Biodiversity

<MinisterGSCEB@gov.scot>

**Cc:** Cabinet Secretary for Net Zero, Energy and Transport

<CabSecNetZET@gov.scot>; Cabinet Secretary for Finance and Economy

<CabSecFE@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; DG Scottish

Exchequer Mailbox <DGScottishExchequer@gov.scot>; Director of Environment &

Forestry <director.enfor@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]

<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] (Circular

Economy) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]

<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]

<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]

<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]

<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]

<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; McFarlane J (John)

(Special Adviser) <[Redacted]@gov.scot>; Huyton H (Harry)

<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>

**Subject:** Routine: Deposit Return Scheme - final UK Government position on treatment of VAT

[Redacted]

Attached is a short, routine submission providing advice on the VAT response from the UK Government's Financial Secretary to the Treasury (FST) and on next steps, including a draft reply to the FST.

The recommendation is that the UK Government's position is now final and that the Scottish Government should therefore focus on supporting Circularity Scotland to work with HMT and HMRC on the detailed changes to the current VAT system that will make it workable for our DRS.

[Redacted]

[Redacted] | **Circular Economy Unit | Environmental Quality and Circular Economy Division | Environment and Forestry Directorate | Scottish Government | Tel:** [Redacted]

**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** Minister for Green Skills, Circular Economy and Biodiversity

**Sent:** 16 November 2021 14:05

**To:** Minister for Green Skills, Circular Economy and Biodiversity  
<MinisterGSCEB@gov.scot>; [Redacted] <[Redacted]@gov.scot>  
**Cc:** Cabinet Secretary for Net Zero, Energy and Transport  
<CabSecNetZET@gov.scot>; Cabinet Secretary for Finance and Economy  
<CabSecFE@gov.scot>; DG Economy <DGEconomy@gov.scot>; DG Scottish  
Exchequer Mailbox <DGScottishExchequer@gov.scot>; [Redacted]  
<[Redacted]@gov.scot>; Director of Environment & Forestry  
<director.enfor@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]  
<[Redacted]@gov.scot>; [Redacted] (Circular Economy) <[Redacted]@gov.scot>;  
[Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>;  
[Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>;  
[Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>;  
[Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; McFarlane  
J (John) (Special Adviser) <[Redacted]@gov.scot>; Huyton H (Harry)  
<[Redacted]@gov.scot>  
**Subject:** RE: Immediate: Deposit Return Scheme (DRS) - VAT letter to FST

[Redacted]

Sharing the attached response from the Treasury to Ms Slater.

[Redacted] - Private Secretary to Lorna Slater MSP, Minister for Green Skills,  
Circular Economy and Biodiversity

Scottish Government | St Andrew's House, Regent Road, Edinburgh EH1 3DG |  
Mob: [Redacted] | Email: MinisterGSCEB@gov.scot

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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** Minister for Green Skills,  
Circular Economy and Biodiversity

**Sent:** 05 November 2021 14:40

**To:** [Redacted] <[Redacted]@gov.scot>; Minister for Green Skills, Circular Economy  
and Biodiversity <MinisterGSCEB@gov.scot>

**Cc:** Cabinet Secretary for Net Zero, Energy and Transport  
<CabSecNetZET@gov.scot>; Cabinet Secretary for Finance and Economy  
<CabSecFE@gov.scot>; DG Economy <DGEconomy@gov.scot>; DG Scottish  
Exchequer Mailbox <DGScottishExchequer@gov.scot>; [Redacted]  
<[Redacted]@gov.scot>; Director of Environment & Forestry  
<director.enfor@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]  
<[Redacted]@gov.scot>; [Redacted] (Circular Economy) <[Redacted]@gov.scot>;  
[Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>;  
[Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>;  
[Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>;  
[Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; McFarlane

J (John) (Special Adviser) <[Redacted]@gov.scot>; Huyton H (Harry) <[Redacted]@gov.scot>

**Subject:** RE: Immediate: Deposit Return Scheme (DRS) - VAT letter to FST

Thanks [Redacted] – the signed letter that issued this afternoon is attached for records.

[Redacted] - Private Secretary to Lorna Slater MSP, Minister for Green Skills, Circular Economy and Biodiversity

Scottish Government | St Andrew's House, Regent Road, Edinburgh EH1 3DG |  
Mob: [Redacted] | Email: MinisterGSCEB@gov.scot

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**From:** [Redacted] <[Redacted]@gov.scot>

**Sent:** 05 November 2021 10:44

**To:** Minister for Green Skills, Circular Economy and Biodiversity  
<MinisterGSCEB@gov.scot>

**Cc:** Cabinet Secretary for Net Zero, Energy and Transport

<CabSecNetZET@gov.scot>; Cabinet Secretary for Finance and Economy

<CabSecFE@gov.scot>; DG Economy <DGEconomy@gov.scot>; DG Scottish

Exchequer Mailbox <DGScottishExchequer@gov.scot>; [Redacted] <[Redacted]

@gov.scot>; Director of Environment & Forestry <director.enfor@gov.scot>;

[Redacted] <[Redacted] @gov.scot>; [Redacted] <[Redacted] @gov.scot>;

[Redacted] (Circular Economy) <[Redacted] @gov.scot>; [Redacted] <[Redacted]

@gov.scot>; [Redacted] <[Redacted] @gov.scot>; [Redacted] <[Redacted]

@gov.scot>; [Redacted] <[Redacted] @gov.scot>; [Redacted] <[Redacted]

@gov.scot>; [Redacted] <[Redacted] @gov.scot>; [Redacted] <[Redacted]

@gov.scot>; [Redacted] <[Redacted] @gov.scot>; McFarlane J (John) (Special

Adviser) <[Redacted] @gov.scot>; Huyton H (Harry) <[Redacted] @gov.scot>

**Subject:** Immediate: Deposit Return Scheme (DRS) - VAT letter to FST

[Redacted]

As requested by Ms Slater yesterday, attached is a letter to send to the Financial Secretary to the Treasury. It asks for a call to discuss the VAT treatment of deposits following previous correspondence sent on 8 October (also attached).

### Timing

Ms Slater wants the call to take place before the Ministerial statement on 17 November so it would be helpful if the letter were sent as soon as possible and then Private Office followed up quickly with FST's office to arrange the call (preferably for next week).







Ms L Slater MSP  
St. Andrews House  
2 Regent Road  
Edinburgh  
EH1 3DQ

16 November 2021

Dear Lorna

### **Scotland Deposit Return Scheme and VAT treatment of deposits**

Thank you for your letter of 8 October regarding the above matter, and please accept my apologies for the delay in my response. Due to the importance of this matter, my officials have given serious consideration to the proposals outlined by yourself and Circularity Scotland Ltd (CSL) in your respective letters.

I appreciate the importance of the Deposit Return Scheme (DRS) and its environmental aims, which align with those of the UK Government. As you will be aware, the UK Government is also developing a DRS that will apply to England, Wales and Northern Ireland, and therefore the concerns you have raised are not limited to the Scottish DRS.

I should first explain that the application of VAT on deposits is not a policy decision that the UK Government has adopted. Rather, it is how UK VAT law applies to any taxable supply made by a VAT-registered business. Container deposits are charged with the sale of drinks and are not a separate supply of a good or service. This means that the deposit forms part of the consideration (what is paid by the consumer for the drink) of the supply for VAT purposes. Moreover, because a customer can only buy and gain ownership of a drink if they pay the price including the deposit amount, these are linked. However, my officials have also explored whether there are alternative ways to remove the VAT from DRS within UK VAT law, but have concluded that it would not be possible without undermining the fundamental principles of the VAT system.

I understand that my officials explained this to Scottish Government officials in their first engagement in March 2020, just before 'The Deposit and Return Scheme for Scotland Regulations 2020' were implemented. However, in a recent meeting with CSL, my officials agreed to consider its legal argument which suggested that the UK could make DRS VAT free without breaching the fundamentals of UK VAT law. As you are aware, CSL has argued that your government has implemented a regulation (No. 5 of the Deposit and Return Scheme Scotland Regulations 2020), that overrules UK VAT law by expressly excluding container deposits from being part of the consideration of the drink.

[Regulation 10(5)(f) - Third Party Interests]

[Regulation 10(5)(f) - Third Party Interests]

CSL has also suggested that VAT on deposits would critically impact costs for businesses and business readiness. However, as stated above, the VAT treatment applies under current law as it does to any other supply. It does not require any

deviation from existing processes and costs, which all VAT-registered businesses currently manage. We therefore do not agree that this would have a critical impact on businesses.

Allowing a change to enable DRS to be treated as outside the scope of VAT would have significant repercussions on the UK VAT system as it would undermine the fundamental principles, which align with international standards, on which it is based. It would also contravene recent policy and legislative developments that ensure that VAT is accounted for on retained deposits and other charges not refunded to customers. It could also potentially have far reaching consequences, as other interest groups and stakeholders are likely to lobby for similar treatments to remove other payments from the scope of VAT. This in turn would also have a deleterious effect on the durability of the VAT system, which would undermine the stability of the business environment and put public revenues at risk. I am therefore unable to support your and CSL's proposals to change the application of VAT for DRS, given the wider implications to UK VAT system.

I would instead like to recommend that my officials continue to work with Scottish Government to implement the proposal that will allow businesses at the top of the supply chain to adjust for the VAT element of the deposit. Officials have identified that under current rules businesses at the top of the supply chain (e.g. manufacturers) will be unable to adjust for the VAT element of the deposit on returned drinks containers where the refund is made via a third party (i.e. CSL). The UK Government does not want VAT to hinder the operation of DRS through restricting VAT recovery and have therefore suggested a change in UK law to amend this. My officials have been engaging with your officials and CSL to understand how that would work in practice, and I support developing this proposal further. I look forward to our officials continuing to collaborate on this important matter for both Scotland and the entire UK. A copy of this letter has also been sent to Circularity Scotland Ltd.

Yours sincerely,

THE RT HON LUCY FRAZER QC MP

- **Document 2:**

Minister for Green Skills, Circular Economy and Biodiversity □□□□  
Lorna Slater MSP  
T: 0300 244 4000  
E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

The Rt Hon Lucy Frazer QC MP  
Financial Secretary to the Treasury  
HM Treasury  
*[by email to: [Redacted]]*

1 December 2021

Dear Lucy

## **SCOTLAND DEPOSIT RETURN SCHEME AND VAT TREATMENT OF DEPOSITS**

Thank you for your letter of 16 November. I am of course disappointed that the UK Government has decided to maintain its approach to the VAT treatment of deposits under our environmentally ambitious deposit return scheme. I continue to have concerns about the impact that this will have on operability and timescales for our scheme, as set out by industry, and maintain that an alternative solution could have been pursued.

However, the implementation of the deposit return scheme is a priority for the Scottish Government. I understand that there are still many detailed points to be ironed out regarding the implementation of the DRS under current VAT rules, and before proposed amendments to the VAT regulations are made. It is therefore critically important that your officials work together with Circularity Scotland Ltd, our scheme administrator, and my officials, to ensure that the solution that you propose is done as effectively and efficiently as possible for the businesses involved.

I am keen to ensure that constructive engagement continues so that the range of outstanding issues are fully resolved, and welcome your commitment to collaboration on this as we move forward.

Kind regards

**LORNA SLATER**