

The Scottish Aggregates Tax (Administration) Regulations 2025

The Scottish Aggregates Tax (Revenue Scotland and Tax Powers Act Amendments etc.) Regulations 2025

Scottish Aggregates Tax administration regulations – Partial Business and Regulatory Impact Assessment

Response by the Chartered Institute of Taxation

1 Introduction

- 1.1 We welcome the opportunity to provide feedback on the draft Scottish Aggregates administration regulations which set out the administrative rules for the tax, as well as the draft partial Business and Regulatory Impact Assessment (BRIA).
- 1.2 The CIOT's stated objectives for the tax system include:
- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
 - Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
 - Greater certainty, so individuals can plan ahead with confidence.
 - A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
 - Responsive and competent tax administration, with a minimum of bureaucracy.

2 Part 1 Regulation 2 – Definition of “aggregates invoice”

- 2.1 Are the issue of a separate aggregates invoice and the definition of aggregates invoice in Reg 2 both to be mandated? Or is it that the items listed in Reg 2 must be included on the business' sales invoice? Our understanding is that it is the second but on reading the regulations this is not entirely clear. Both would be a new requirement for operators. Currently most operators do not show the aggregates levy on invoices as it is not a requirement of the UK Aggregates Levy (“UKAL”) and software may not currently have the capability to do this.
- 2.2 The inclusion of the Scottish Aggregates Levy (“SAT”) on invoices may have a commercial impact on operators – the inclusion (or not) of the levy forms part of the operator's consideration when commercially pricing a supply to a customer. Where levy is not due, operators may still be able to charge a similar unit price (to that

when a levy is applied), increasing the profitability of those supplies. This affects the profitability of their overall business. The levy payable is a cost borne by the producer's business and is therefore commercially sensitive information.

- 2.3 We appreciate that one reason for identifying the SAT on invoices may be to help identify unregistered businesses e.g. customers can identify whether an operator is registered if they see the levy on the invoice. However, inclusion of SAT on an aggregates invoice does not necessarily address this issue. Secondary aggregate is not subject to the levy and if there is a rogue player, they may simply explain that the aggregate is secondary levy when queried by a customer. If there are rogue players, it is unlikely that the presentation of SAT on the invoice will drive compliant behaviour.
- 2.4 The BRIA notes that the recommendation is to adopt regulations which are aligned with the fundamental structure of UKAL. We note that the UKAL regulations do not define a UK aggregates invoice and that there doesn't seem to be a definition in the UKAL guidance.
- 2.5 If the definition of aggregates invoice is to be mandated, then this needs to be clearly stated in the regulations and communicated as early as possible to producers and their software providers. There needs to be a reasonable and sufficient lead in time to enable software programmes to be updated to accommodate such changes.
- 2.6 If the decision is made to mandate the inclusion of information in Reg 2 on an operator's invoices, we raise points on the clarity of this in the draft regulations below.
 - The only other reference to "aggregates invoice" in the general administration regulations is in Reg 32(a) in respect of claims for bad debt relief.
 - There is a definition of an invoice for Scottish Landfill Tax ("SLfT") in Reg 34 of the SLfT Admin Regs of 2015, which is similar to the definition being included in the SAT general administration regulations. However, Reg 24 clearly mandates the contents of the invoice – "An invoice is a landfill invoice if it contains the following information ...".
 - If Reg 2 were phrased similarly to that of Reg 34 of the SLfT Admin Regs, this would help to relieve some of this ambiguity. We note that the draft SAT administration regulations do largely follow those in the SLfT and therefore it would seem sensible that the mandating of the invoice should follow suit.
 - Reg 5 of the SAT Record Keeping Regulations refers to a requirement to retain "...all invoices (including aggregates invoices as defined in Regulation 2)...". If the aggregates invoice as defined in Reg 2 is to be mandated, what other invoices would need to be retained?

3 Part 2 Regulation 7

- 3.1 Our understanding on reading this clause is that failure to use a weighbridge/specified method or agreed method automatically results in a deliberate error penalty under Section 182 Revenue Scotland and Tax Powers Act 2014 ("RSTP"). This seems unduly harsh. Such failures could be careless errors e.g. accidental deviation from specified/agreed method, and/or there may be circumstances where a weighbridge breaks or the business is waiting for a method to be agreed by Revenue Scotland.

4 Part 4 Regulation 20

- 4.1 For completeness, we note that there appears to be missing references in Reg 20.

5 Part 5 Regulations 23 - 24

- 5.1 Regulation 23(2) provides that a registrable person must make a return not later than 30 days following the end of the accounting period to which it relates. Will this be sufficient given the additional new information requirements for the return over and above the current requirements of the UKAL? If additional information is required over and above the UKAL requirements then it would be reasonable that more time would be required to gather this information and complete returns.
- 5.2 We note that the tax payment date falls due on the date that the return is submitted. When discussed at meetings, it was noted that perhaps a payment date of 30 days was possible but the additional requirements for the return would not be possible within 30 days. For taxpayer clarity, it is better that the return date aligns with payment date. If not, this opens a discussion on the practicalities and processes that would be required should a taxpayer subsequently determine their tax liability is different on completion of their return.
- 5.3 We would note more generally that a 30 day submission window is incredibly short, and much shorter than most other UK taxes. There will inevitably be factors that delay the gathering of information for returns – operators are primarily running a business that will draw on their time and resources. Is a 30 day submission period realistic?
- 5.4 Clause 24(4) and 24(5) relate to required declarations on the return, which would seem to fit better under Clause 23 (Making of returns).

6 Aggregates invoices and returns – level of information being requested from operators

- 6.1 It is important that the requirements for invoices and returns are not burdensome to taxpayers and disproportionate to the revenues being raised. From the discussions we have had to date, we understand the Scottish Government's desire to use the aggregates invoice and returns to gather more information on the sector. However, the requirements in Regulation 2 for an aggregates invoice are much greater than that of the UKAL. We await sight of the draft return but our understanding from the discussions to date is that there may be additional information gathered on the return compared to a UKAL return. Increased administration requirements are burdensome to taxpayers and it is important that this does not become disproportionate to the revenue being collected. In an ideal world, it would of course be useful to gather as much information as possible but not where this becomes disproportionately burdensome to the affected taxpayers. As part of the Scottish Government's post implementation review (as discussed in the Partial Business and Regulatory Impact Assessment (BRIA)), it would be helpful to review the administrative burden that the administrative regulations (including the definition of an aggregates invoice and the return requirements) have on affected taxpayers.
- 6.2 We note that the Revenue Scotland and Tax Powers Act (Involved Third Party) Order 2015 has been updated to include third party inspection powers. The introduction of the SAT is an opportunity to use these powers to refresh and increase compliance in the sector in Scotland. We hope that the focus is not on disproportionately increasing the administrative burden on compliant taxpayers and rather on increasing overall compliance in Scotland. There is a real opportunity here to improve compliance in Scotland and avoid the longer term impacts of non-compliance (which then result in future corrective measures and taxes to be brought into place to remediate – take for example the Scottish Building Safety Levy). We await further information on the plans for whom will be responsible for on-site compliance and inspection and how this may be implemented. The power to delegate such responsibility to a third party may free up Revenue Scotland's capacity for processing returns/payments, preparing and issuing guidance, responding to taxpayer queries and evaluating the effectiveness of the levy.

Scottish Aggregates Tax administration regulations – Partial Business and Regulatory Impact Assessment**7 Page 3 Rationale for Government intervention**

- 7.1 This section introduces the Scottish Government's aim to work towards a circular economy (and therefore the use of alternatives rather than primary aggregates). It is acknowledged that SAT cannot deliver circular economy ambitions but there does not appear to be any reference to the ClimateX Change, which has been commissioned to understand the nature and extent that alternatives could be used.
- 7.2 As previously raised, we feel it is important that aggregate end users are also involved in the ClimateX Change research to help gather valuable information on the complexities around the use of alternatives in various construction and civil projects.

8 Page 8, paragraph 1

- 8.1 *"More specifically, although the specific details of the tax return will be set out by Revenue Scotland in future and may differ from that for UKAL, the Scottish Government expects that any tax return would draw on data that taxpayers would already be required to hold in relation to UKAL"*
- 8.2 Given what we know about the proposed return it requires more data than the UKAL return which affected businesses will be required to create and collate.

9 Page 8, paragraph 2

- 9.1 *"There will inevitably be additional administration costs for businesses which require to submit returns and data to SAT and UKAL. However, the Scottish Government does not anticipate significant additional administration costs arising from this and expects overall business costs to be broadly comparable to current UKAL costs."*
- 9.2 Expectations amongst affected business are that their compliance costs will double as they will have two registrations and two sets of returns. UK users of Scottish aggregate are also proposed to have to register for rUK Aggregates Levy under the working scenarios (dependent on any changes to rUK legislation that may occur), which they have never had to do before.
- 9.3 It was noted in recent updates that the Scottish Government and Revenue Scotland had been undertaking on site visits to businesses (this is referred to on page 10 in terms of the impact these visits have had on the development of the registration process and the tax return). Will there be an update on the assessment of cross border complexities and the cost to affected businesses following these visits? Page 8, para 2 simply states that the Scottish Government does not anticipate significant additional administration costs with no further explanation or discussion.
- 9.4 When receiving an update on these visits, we would welcome information on the number of visits undertaken and the methodology used to select which operators were approached / visited. As with the development of any devolved tax, it is important that there is sufficient diversity in the businesses being contacted to input into the development of the tax and administrative procedures.

10 Page 8, paragraph 3

- 10.1 We would highlight that the cost to business was not quantified in the Financial Memorandum for the 2024 Act that is referred to.

11 Page 11, paragraph 2 – Digital Impact Test

- 11.1 “The collection and management of SAT will be designed to operate online, in order to maximise convenience for the taxpayer and efficiency for Revenue Scotland.”
- 11.2 We understand from our discussions that there will be no requirement for digital linkage, for example in a similar manner to Making Tax Digital for Income Tax. This means that it would be possible to take digital forms for example and work offline with them. It would be helpful to include this intention in the document for clarity.

12 Page 12 – Post Implementation Review

- 12.1 There will inevitably be complexities with cross border transactions and likely operators who genuinely do not understand or realise the requirements have changed. There is no hard border between Scotland and the rest of the UK – leaving non-compliance aside for this point, how does the Scottish Government intend to pick up genuine errors? If anomalies are identified, how will the Scottish Government address legislative change urgently required to address these? It would be useful to expand on this in the BRIA if possible. This is where an annual Finance Bill would be helpful to avoid delays in legislative change.

13 About us**CIOT**

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

The Chartered Institute of Taxation

10 January 2025