



Aggregates levy: credits in Northern Ireland

Who is likely to be affected?

Anyone who accounted for aggregates levy at the full rate on aggregate that was commercially exploited between 1 April 2004 and 30 November 2010 in Northern Ireland (NI) following importation from another European Union (EU) Member State.

General description of the measure

The measure will entitle eligible claimants to a credit of 80 per cent of aggregates levy that was paid at the full rate on aggregate commercially exploited in NI between 1 April 2004 to 30 November 2010 (the relevant period), where the aggregate was imported from another EU Member State. Claimants will need to provide evidence to the Department of Environment (DoE) in NI to demonstrate that the quarry from which they obtained the aggregate met specified environmental standards.

Policy objective

This measure removes a distortion that arose from excluding aggregate that originated in other EU Member States from the tax benefit derived from participation in the Aggregates Levy Credit Scheme (ALCS). It does this by allowing a credit from aggregates levy for aggregate that was commercially exploited in NI during the relevant period following importation from an EU Member State other than the UK, where certain conditions are met.

Background to the measure

The aggregates levy was introduced in 2002 and is a tax on sand, rock and gravel commercially exploited in the UK. From the outset a credit scheme was introduced in NI to help aggregate producers there cope with the very different market conditions to those in Great Britain as a result of being the only part of the UK to share a land boundary with another EU Member State. This scheme was adjusted in 2004 in response to concerns that the levy was not having the intended effect in NI.

From 1 April 2004, the ALCS provided an 80 per cent credit from the aggregates levy to anyone who commercially exploited aggregate in NI, on condition that the aggregate originated there and that the quarry operator entered into an agreement with the DoE in NI. The agreements set targets for improvement in the environmental performance of the quarry's operations. DoE assessed the quarry's environmental standards and monitored performance against the agreement targets. Compliance was reflected by the issue of a certificate by DoE, which was used to support claims to HM Revenue and Customs (HMRC) for tax credit.

The ALCS received the European Commission's State aid approval in 2004 but, following a legal challenge by the British Aggregates Association, that approval was annulled by the European General Court in September 2010. As a result, the scheme was suspended from 1 December 2010, pending a full investigation by the Commission.

The Commission completed its investigation into the ALCS and published its decision on 7 November 2014. It concluded that it is broadly content with the scheme but requires the UK to correct the distortion of competition that arose from limiting the ALCS tax benefit to aggregate originating in NI.

HMRC published Revenue and Customs Brief 41/14 on 17 November 2014 setting out more detail on how the scheme will operate. Draft legislation was published on 10 December 2014.

Detailed proposal

Operative date

This measure will have effect on the date that Finance Bill 2015 receives Royal Assent for qualifying aggregate that was commercially exploited in NI during the relevant period. Claims must be submitted to HMRC within four years of the legislation coming into force.

Current law

The primary legislation for aggregates levy is set out in Finance Act (FA) 2001. The ALCS was introduced by section 30A of that Act which provided for regulations setting out how the scheme operated. These regulations - the Aggregates Levy (Northern Ireland Tax Credit) Regulations 2004 (SI 2004/1959) - were revoked by the Aggregates Levy (Northern Ireland Tax Credit) (Revocation) Regulations (SI 2010/2598) with effect from 1 December 2010.

Proposed revisions

Legislation will be introduced in Finance Bill 2015 to add sections 30B, 30C and 30D to FA 2001 to provide for credits of 80 per cent on aggregate where the full rate of levy was paid when the aggregate was commercially exploited in NI during the relevant period following its importation from another Member State. Secondary legislation laid before Parliament in spring 2015 will specify evidence needed to support claims, including details of the originating quarry.

Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	-	negligible	negligible	negligible	negligible	negligible
The Office for Budget Responsibility has included these numbers in its forecast.						
Economic impact	The measure is not expected to have any significant economic impact.					
Impact on individuals, households and families	This measure concerns the taxation of businesses. There will be no direct impact on individuals. The measure is not expected to impact on family formation, stability or breakdown.					
Equalities impacts	This measure concerns the taxation of businesses and there will be no direct impact on individuals. As such it is very unlikely that there will be any impact on equality.					
Impact on business including civil society organisations	This measure is expected to have negligible impact on fewer than 100 businesses. A business wishing to claim a levy credit will need to supply DoE with details of the quarry in the other Member State from which it obtained the aggregate. DoE will investigate the environmental standards that applied at that quarry at the time of the purchase and, if satisfied that those standards were broadly equivalent to those met by quarries in NI under the ALCS, will issue the business with a certificate. The business will then need to write to HMRC to claim a levy credit, attaching a copy of the DoE certificate and other evidence supporting its claim.					

	Businesses affected by this measure will be familiar with the ALCS and, since the mechanism for claiming credits will be similar to that scheme, there should be little by way of familiarisation costs. The businesses should also be familiar with the procedures for claiming credits from HMRC.
Operational impact (£m) (HMRC or other)	Operational costs of the DoE in NI and for HMRC will be negligible.
Other impacts	Other impacts have been considered and none have been identified.

Monitoring and evaluation

The measure will be kept under review through regular communications with the DoE in NI and HMRC's Environmental Taxes Unit of Expertise who will jointly manage its implementation.

Further advice

If you have any questions about this change, please contact Catherine Osborne on 03000 536971 (email: catherine.osborne@hmrc.gsi.gov.uk).

1 Tax credit in Northern Ireland

- (1) Part 2 of FA 2001 (aggregates levy) is amended in accordance with subsections (2) to (5).
- (2) After section 30A insert –

“30B Tax credit in Northern Ireland: further provision

- (1) The Commissioners may by regulations make provision of the kind described in section 30(2) (entitlement to tax credit) in relation to cases within subsection (3) below.
- (2) Tax credit to which a person is entitled under the regulations is referred to in this section as “special tax credit”.
- (3) The cases are where –
 - (a) a person has been charged with, and has fully accounted for, aggregates levy in respect of the commercial exploitation of a quantity of aggregate,
 - (b) the exploitation was of imported aggregate and occurred in Northern Ireland in the period defined in subsection (5), and
 - (c) the person has given the Department of the Environment in Northern Ireland (“the Department”) written notice that the person has been charged with the levy in a case falling within paragraph (b).
- (4) For this purpose aggregate is “imported” if it was won from a site in a member State other than the United Kingdom.
- (5) The period mentioned in subsection (3)(b) –
 - (a) begins with 1 April 2004, and
 - (b) ends with 30 November 2010.
- (6) Regulations may in particular –
 - (a) provide that a person is not entitled to special tax credit unless the Department has certified that it is satisfied that specified requirements were met in relation to the site from which the aggregate originates during a period which includes the time when the aggregate was won from the site;
 - (b) specify further conditions for entitlement to special tax credit;
 - (c) make provision about the rate at which special tax credit is to be given (including provision restricting the amount of special tax credit in cases where entitlement to a tax credit has already arisen);
 - (d) provide for compound interest at the applicable rate (see section 30C) to be treated as added, for such period and for such purposes as may be prescribed, to the amount of any special tax credit;

- (e) authorise the Commissioners to adjust a person's claim for special tax credit in specified circumstances.
- (7) Regulations under subsection (6)(a) may specify the requirements in question by reference to any provisions of a notice published by the Department in pursuance of the regulations and not withdrawn by a further notice.
- (8) Subsection (3) of section 30 (except paragraph (f) of that subsection) applies to regulations under this section as it applies to regulations under that section.
- (9) Section 32(1) (time limit for claims) does not apply to a claim for repayment of aggregates levy made under regulations under this section.

30C Special tax credit: applicable rate of interest

- (1) The reference in section 30B(6)(d) to the applicable rate is to a rate provided for in regulations made by the Treasury.
- (2) Regulations under this section may provide for the rate to be determined, and to change from time to time, by reference to a rate referred to in the regulations.
- (3) Regulations under this section are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

30D Section 30B: certification by Department

- (1) A person may, for the purpose of making a claim for special tax credit, apply to the Department for a certificate under subsection (3).
- (2) The application must specify –
 - (a) a site, and
 - (b) a time (“the relevant time”).
- (3) Where an application is made and the Department has not previously made a determination under this subsection relating to both the specified site and a period that includes the relevant time, the Department must either –
 - (a) certify that it is satisfied that any requirements specified by virtue of section 30B(6)(a) were met in relation to the site during a period (specified in the certificate) that includes the relevant time, or
 - (b) refuse the application.
- (4) If the Department makes the certification mentioned in subsection (3)(a), it must give a copy of the certificate to –
 - (a) the applicant, and
 - (b) HMRC.
- (5) Where an application is made and the Department has previously given a certificate under subsection (3)(a) relating to both the specified site and a period that includes the relevant time, the Department must give the applicant a copy of the certificate.

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- (6) Any expenses of the Department under or by virtue of this section or section 30B are to be appropriated from the Consolidated Fund of Northern Ireland by Act of the Northern Ireland Assembly.
 - (7) In this section “the Department” and “special tax credit” have the same meaning as in section 30B.”
- (3) In section 17 (meaning of “aggregate” and “taxable aggregate”), in subsection (6)(a), for “or 30A” substitute “, 30A or 30B”.
 - (4) In section 48(1) (interpretation of Part), in the definition of “tax credit regulations”, for “or 30A” substitute “, 30A or 30B”.
 - (5) In paragraph 9A of Schedule 6 (incorrect records etc evidencing claim for tax credit), in sub-paragraph (1)(a) –
 - (a) omit the “or” at the end of sub-paragraph (i), and
 - (b) after sub-paragraph (ii) insert “, or
 - (iii) section 30B(3) of this Act (tax credit in Northern Ireland: further provision);”.

EXPLANATORY NOTE

AGGREGATES LEVY: TAX CREDIT IN NORTHERN IRELAND

SUMMARY

1. Clause [X] enables the Commissioners for HM Revenue and Customs (HMRC) to pay credit relating to aggregates levy paid on aggregate commercially exploited in Northern Ireland (NI) between 1 April 2004 and 30 November 2010 following importation of the aggregate from another European Union (EU) Member State. It also outlines the part to be played by the Department of the Environment in NI (DoE) in this process and specifies information which must be provided by the person claiming a credit.

DETAILS OF THE CLAUSE

2. Subsection (2) inserts new sections 30B and 30C into the Finance Act 2001 (FA 2001).

3. New section 30B(1) enables HMRC to make regulations for the purpose of administering the credit. Section 30B(3) sets out the circumstances in which a person is to be entitled to claim the credit; in particular they must have previously accounted for aggregates levy in respect of aggregate imported into Northern Ireland during a specified period, and must have previously notified their claim to the DoE. Sections 30B(4) and (5) define terms used in section 30B(3). Section 30B(6) sets out those matters which regulations made by HMRC for the purposes of administering the credit may cover, in particular a power to impose a requirement that a person is not to be entitled to the credit unless the DoE is satisfied that the site from which the aggregate originated (“originating site”) met prescribed conditions; while section 30B(7) enables the DoE to set out those prescribed conditions in a notice. Sections 30B(8) and (9) make consequential amendments to FA 2001.

4. New section 30C sets out the procedure for making an application to the DoE which will apply if HMRC has imposed a requirement under section 30B(6) that a person is not to be entitled to the credit unless the DoE is satisfied that the originating site met prescribed conditions. Section 30C(2) sets out the information that an application to the DoE must contain. Sections 30C(3), (4) and (5) require the DoE to consider applications that are submitted and either certify that the originating site met the prescribed conditions or refuse the application. Section 30C(6) provides that expenses incurred by the DoE in complying with its obligation under this section are to be met from the Consolidated Fund of Northern Ireland.

5. Subsections (3), (4), and (5) make minor consequential amendments to the FA 2001.

BACKGROUND NOTE

6. Aggregates levy is a tax on the commercial exploitation of rock, sand and gravel in the UK. It was introduced on 1 April 2002.
7. The Aggregates Levy Credit Scheme (ALCS) was introduced on 1 April 2004. It provided an 80 per cent levy credit to operators in NI who commercially exploited aggregate originating there, provided they entered into an agreement with the DoE to improve environmental standards at their site(s). The scheme was intended to help aggregate producers in NI cope with the very different market conditions (compared with those in Great Britain) as a result of being the only part of the UK to share a land boundary with another EU Member State.
8. In response to action taken by the British Aggregates Association, in 2010 the European General Court annulled the European Commission's 2004 State aid approval for the ALCS. The scheme was therefore suspended from 1 December 2010 while the Commission undertook an investigation.
9. The Commission completed its investigation and published its decision on 7 November 2014. The Commission was broadly content that the scheme complied with the prevailing rules but expressed concern that the tax benefit arising from the ALCS did not apply to aggregate commercially exploited in NI that originated in another EU Member State. The Commission's decision requires the UK to correct this distortion.
10. HMRC will work in partnership with the DoE in the operation of the tax credits scheme. A business wishing to claim a levy credit will need to supply DoE with details of the quarry in the other Member State from which it obtained the aggregate. DoE will investigate the environmental standards that applied at that quarry at the time of the purchase and, if satisfied that those standards were broadly equivalent to those met by quarries in NI under the ALCS, will issue the business with a certificate. The business will then need to write to HMRC to claim a levy credit, attaching a copy of the DoE certificate and other evidence supporting its claim.
11. If you have any questions about this change, or comments on the legislation, please contact Catherine Osborne on 03000 536971 (email: catherine.osborne@hmrc.gsi.gov.uk).