



HM Treasury



UK Government



Scottish Government  
Riaghaltas na h-Alba

# Consultation on devolving powers for a Scottish Building Safety Levy

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**A joint consultation by the UK  
and Scottish Governments.**





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January 2024



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# Chapter 1

## **Purpose of this Consultation**

1.1 This consultation invites views and evidence in relation to the proposal to devolve powers to the Scottish Parliament to create an equivalent tax to the UK Government's Building Safety Levy.

# Chapter 2

## Introduction

**2.1** The UK and Scottish Governments face common challenges around remediating historical building safety defects, such as defective cladding, and are both committed to ensuring that the housing sector makes a fair contribution towards the associated costs.

**2.2** The UK Government has announced its intentions to introduce a Building Safety Levy (“the Levy”) in England. The Levy will apply, subject to any agreed exemptions, as a tax on residential buildings requiring building control approval in England, with revenues being used to fund building safety remediation in England, such as those affected by unsafe cladding. (Differences in the respective building control systems and housing markets in England and other parts of the UK were factors weighing against a UK-wide levy.)

**2.3** In its 2023-24 Programme for Government, the Scottish Government announced its intention to seek the transfer of powers to introduce a new tax in Scotland, equivalent to the UK Government’s Building Safety Levy for England.

**2.4** Section 80B of the Scotland Act 1998 (as amended) provides for the creation of new devolved taxes in Scotland. This follows a recommendation from the Calman Commission, which stated that “we see no reason why the Scottish Parliament should not be able to legislate to create new taxes that affect the whole of Scotland uniformly and not just via local taxation, if it does so with the agreement of the whole UK Parliament”. The Calman Commission envisaged a permissive approach and thus approval is required by both Houses of the UK Parliament and by the Scottish Parliament.

**2.5** The UK Government has a responsibility for the coherence of the UK tax system as a whole, the UK single market, and for macroeconomic matters and the UK single market. To guide its consideration of proposals for new devolved taxes, the UK Government set out criteria in the Command Paper ‘Strengthening Scotland’s Future’ (p32-3) reflecting these responsibilities. This consultation seeks evidence on these criteria and sets out the policy context in relation to which this evidence should be provided. It seeks views on any potential impact on UK macroeconomic policy or the single UK market in house building and on whether the power to introduce a Building Safety Levy should be devolved to the Scottish Parliament.

# Chapter 3

## Policy Context

### UK Building Safety Levy

3.1 In 2021, the UK Government announced that it would introduce a Building Safety Levy which would apply as a tax on any new development in England considered as “residential”. The revenues from the Levy – expected to be around £3 billion over a 10-year period - will be used to fund work to repair buildings across England with historical building safety defects.

3.2 Section 58 of Building Safety Act 2022 provides the primary legislative framework for the Levy, and regulations will be made in due course to provide for how it will work in practice.

3.3 A summary of what the UK Government intends is set out in the box below. Further detail on how the UK Levy is intended to operate can be found on the UK Government website.

#### Overview of UK Building Safety Levy

- It is intended that the Levy will be collected by local authorities.
- Levy rates will vary by local authority boundary in England to take account of different house values.
- It is proposed there will be a differential levy rate for new build on “brownfield land”.
- There are a number of proposed exemptions to the levy including affordable housing (a full list can be found on the UK Government website)
- It is proposed the levy will be charged on floorspace of developments rather than per unit.
- The UK Government also propose to exclude small developments (under 10 units) as a means of protecting small businesses.
- There is no intention to charge the levy on owner/occupiers who wish to improve their property.

### Devolved Building Safety Levy

3.4 The scale of the cladding issue in Scotland is in proportion to that in England and the Scottish Government faces a similar challenge to the UK Government on how to fund the associated remediation works. The Scottish Government is, therefore, pursuing the devolution of the requisite powers to introduce an equivalent to the Building Safety Levy in Scotland.



**3.5** The Scottish Government intends to introduce the Levy on a national basis, with Revenue Scotland potentially acting as the tax collection body, as is the case with other fully devolved taxes. Introducing a Building Safety Levy as a local tax to fund local expenditure would introduce disproportionate complexity into arranging building safety funding across Scotland and impede the delivery of what the Scottish Government intends to be a national programme.

**3.6** The underpinning objective of raising revenue to support funding for Scottish building safety works will be the same, as will be the expected tax base. The Scottish Government will, however, develop and implement the Levy in a way that is tailored to the Scottish context. This will be informed by the UK Government's approach to the Building Safety Levy and through engagement and consultation with a wide range of stakeholders.

**3.7** The Scottish Government intends to consult on the design of a devolved Levy once an agreement has been reached with the UK Government to legislate to devolve the necessary power.

# Chapter 4

## Assessment of Proposal for a New Devolved Tax Power

4.1 As noted above, the criteria in the Command Paper 'Strengthening Scotland's Future' are intended to guide the UK Government's consideration of new tax devolution proposals, reflecting its responsibility for the coherence of the UK tax system as a whole. This includes the need to ensure that the proposed tax would not impose a disproportionate negative impact on UK macroeconomic policy or impede, to any degree, the single UK market. This includes consideration of the potential for the new tax to create or incentivise economic distortions and arbitrage within the UK.

4.2 The other criteria that the UK Government will consider include:

- a. the potential for the new tax to create or incentivise economic distortions and arbitrage within the UK;**
- b. the potential the new tax might create for tax avoidance across the UK;**
- c. the impact of the proposed tax on compliance burdens across the UK; and**
- d. the compatibility of the new tax with existing legislation.**

4.3 The Command Paper goes on to say that the assessment will be informed by:

- a. the rationale (set out in the policy context above, in this case), intended tax base/taxable activity and expected revenue;**
- b. the expected distributional impact, impact on business and individuals and wider economic impact;**
- c. plans for the collection and administration of the tax, including means of ensuring compliance;**
- d. an assessment of any interaction of the proposed new Scottish tax with UK-wide taxes (including plans to protect policy and**

**geographical borders). This should include the impact of any new tax on UK tax revenues;**

**e. any underlying material used to answer the questions above.**

4.4 Further information pertaining to some of these criteria will become available only when further detailed policy development is done by the Scottish Government on the design of the devolved tax. To allow the Scottish Government to introduce a Scottish Building Safety Levy in a timely fashion, legislating to devolve the necessary power and detailed policy development relating to the tax will overlap. The decision to devolve the power to introduce a Scottish Building Safety Levy needs, therefore, to be taken in the absence of this information. Nevertheless, both Governments are satisfied that, in this case, drawing on the development of the UK Building Safety Levy, and the fact that introducing a comparable levy in Scotland would reduce the differences in cost between relevant English and Scottish house building, the risk of potentially adverse impacts of devolving this tax power are low.

Q1) The UK and Scottish Governments would welcome any observations and evidence addressing the criteria set out at paragraphs 4.1 to 4.3 above. In particular, do you agree that devolving the proposed tax power would not impose a disproportionate negative impact on UK macroeconomic policy or impede the single UK market in house building?

Q2) Bearing in mind there is no option to extend the UK Building Safety Levy to Scotland, do you agree that the power to introduce a Building Safety Levy should be devolved to the Scottish Parliament?

# Chapter 5

## Stakeholder Engagement

5.1 In October 2023 Scottish Government Ministers held a roundtable event with stakeholders and representatives from the housebuilding sector to hear views on the potential introduction of a devolved Building Safety Levy. Officials from the Scottish and UK governments are happy to facilitate further engagement with stakeholders, should there be interest.

# Chapter 6

## How to Respond

6.1 Responses should make clear which questions are being responded to and include all necessary rationale behind their views. Responses should make clear whether they reflect the views of an individual or have been sent on behalf of an organisation.

6.2 This consultation will run for 6 weeks and will close at midnight on 19 February 2024. Responses can be submitted by email to

6.2.1 [BSLdevolutionconsultation@hmtreasury.gov.uk](mailto:BSLdevolutionconsultation@hmtreasury.gov.uk)

6.3 Alternatively, responses can be sent by post to:

Business and International Tax / SDX

HM Treasury

1/Yellow

1 Horse Guards Road

London SW1A 2HQ

# Chapter 7

## Next Steps

7.1 Evidence submitted will be analysed by officials in the UK and Scottish Governments. It will then be used to inform the decision by UK Ministers on whether to provide legislative consent for the creation of a devolved Building Safety Levy.

# Chapter 8

## Privacy Notice

### 8.1 Processing of Personal Data

8.1.1 This section sets out how we will use your personal data and explains your relevant rights under the UK General Data Protection Regulation (UK GDPR). For the purposes of the UK GDPR, HM Treasury is the data controller for any personal data you provide in response to this consultation.

### 8.2 Data Subjects

8.2.1 The personal data we will collect relates to individuals responding to this consultation. These responses will come from a wide group of stakeholders with knowledge of a particular issue.

### 8.3 The personal data we collect

8.3.1 The personal data will be collected through email submissions and are likely to include respondents' names, email addresses, their job titles, and opinions.

### 8.4 How we will use the personal data

8.4.1 This personal data will only be processed for the purpose of obtaining opinions about government policies, proposals, or an issue of public interest.

8.4.2 Processing of this personal data is necessary to help us understand who has responded to this consultation and, in some cases, contact certain respondents to discuss their response.

8.4.3 HM Treasury will not include any personal data if publishing its response to this consultation.

### 8.5 Lawful basis for processing the personal data

8.5.1 Article 6(1)(e) of the UK GDPR; the processing is necessary for the performance of a task we are carrying out in the public interest. This task is consulting on the development of departmental policies or proposals to help us to develop effective government policies.

8.5.2 If a summary of responses is published following the close of the consultation, HM Treasury may include organisation or company names if relevant.

### 8.6 Who will have access to the personal data

8.6.1 The personal data will only be made available to those with a legitimate need to see it as part of consultation process, which may include other government departments where necessary and proportionate.

8.6.2 This consultation is being conducted in partnership with the Scottish Government. For this joint consultation, personal data received in responses will be shared with the Scottish Government in order for them to also understand who responded to the consultation.

8.6.3 As the personal data is stored on our IT infrastructure, it will be accessible to our IT service providers. They will only process this personal data for our purposes and in fulfilment with the contractual obligations they have with us.

8.7 How long we hold the personal data for

8.7.1 We will retain the personal data until work on the consultation is complete and no longer needed.

8.8 Your data protection rights

8.8.1 Relevant rights, in relation to this activity are to:

- a. request information about how we process your personal data and request a copy of it**
- b. object to the processing of your personal data**
- c. request that any inaccuracies in your personal data are rectified without delay**
- d. request that your personal data are erased if there is no longer a justification for them to be processed**
- e. complain to the Information Commissioner's Office if you are unhappy with the way in which we have processed your personal data**

8.9 How to submit a data subject access request (DSAR)

8.9.1 To request access to your personal data that HM Treasury holds, please email: [dsar@hmtreasury.gov.uk](mailto:dsar@hmtreasury.gov.uk)

8.10 Complaints

8.10.1 If you have concerns about Treasury's use of your personal data, please contact our Data Protection Officer (DPO) in the first instance at: [privacy@hmtreasury.gov.uk](mailto:privacy@hmtreasury.gov.uk)

8.10.2 If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner at [casework@ico.org.uk](mailto:casework@ico.org.uk) or via this website: <https://ico.org.uk/make-a-complaint>.





### **HM Treasury contacts**

This document can be downloaded from [www.gov.uk](http://www.gov.uk)

If you require this information in an alternative format or have general enquiries about HM Treasury and its work, contact:

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