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Deposit Return Scheme Consultation
Environmental Quality and Circular Economy Division
Area 3H
Victoria Quay
Leith Docks
Edinburgh EH6 6QQ

Via email: DRSinScotland@gov.scot
Cc: Martin.Davidson@gov.scot

Dear Sir or Madam

The Deposit and Return Scheme for Scotland Regulations 2020: accompanying statement and proposed regulations

We are writing to you in respect of the [consultation](#) for the announced legislation to establish a deposit and return scheme ('the scheme') in Scotland. The scheme would broadly require that a 20p deposit is applied each time a single-use drinks container (as defined) is sold in Scotland, and enable consumers to redeem the deposit when returning these containers to any retailer selling drinks covered by the scheme or any other approved return point.

We explain who we are and the basis of our interest in this matter in the Appendix to this letter.

Although the draft legislation and the scope of the questions in the consultation do not address VAT or tax matters, we strongly recommend that the Environment and Forestry Directorate liaises with HM Revenue and Customs (HMRC) as soon as possible to ensure that the VAT and tax implications of the scheme are considered. The treatment of deposits has been a particularly complex area of VAT and the current VAT guidance at [paragraph 14.2.3 in VAT notice 700](#) does not set out the VAT treatment where the supplier does not always refund the security deposit, nor where the supplier refunds other suppliers' deposits.

Further we would like to see HMRC guidance published that sets out the VAT and income or corporation tax treatment for income received and refunds made via the scheme. We would be happy to provide feedback on any

draft tax guidance produced. As well as the general points around whether these are within or outside the scope of VAT and income or corporation tax, specific areas of HMRC guidance might also include (but are not limited to):


- If deposits are outside the scope of VAT, will it be confirmed that they fall outside the Making Tax Digital record keeping requirements?
- How should deposits be treated on a retailer's simplified VAT invoice?
- Where refunds are returned to consumers by a retailer, and if this is by means of a voucher to reduce the price of a future purchase by the consumer at the retailer's premises, whether the normal VAT rules for vouchers will apply, and whether the retailer should account for VAT on the price of the future purchase before voucher redemption or alternatively, should account for the discounted price?
- Further to the example above, what is the VAT treatment if the voucher is used against the purchase a combination of items (some of which are within the scheme – and include payment of a new deposit, and some which are not)? Alternatively, would refund vouchers only be allowed to offset against future deposits?
- For businesses that only receive deposit income eg certain vending machines, what are the VAT and tax treatments of this income?
- How will businesses selling scheme items situated close to the road or ferry borders with England and Northern Ireland respectively, know whether the item will be consumed outside of Scotland?
- Where a retailer pays out more in refunds than it receives in deposits in a period (eg a supermarket where customers return all of their scheme items purchased from many different suppliers), how is the shortfall in income addressed and what is the impact on the tax treatment?

We note that there are ten countries listed in the consultation as having similar schemes, most of which are in the EU. Research could be undertaken in relation to the VAT and tax treatment adopted in those countries to assist with the development of HMRC's tax guidance for businesses within the scheme.

We would be happy to meet with Scottish Government representatives and / or HMRC (as appropriate) to discuss the tax considerations for the scheme. In any event, we would recommend that officials within the Environment and Forestry Directorate liaise with colleagues in the Taxation Directorate, not least to help access appropriate contacts at HMRC.

If you would like to discuss any of the points raised in this letter, please contact Joanne Walker at jwalker@ciot.org.uk or Jayne Simpson at jsimpson@ciot.org.uk.

Yours faithfully



Alexander Garden
Chair, Scottish Technical Committee

APPENDIX: WHO WE ARE AND WHY WE ARE INTERESTED

The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. 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.

The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

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.

Our stated objectives for the tax system include:

- A legislative process which 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 businesses and 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.

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 CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

The CIOT's 18,500 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.