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Finance and Public Administration Committee

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Dear Convener

Thank you for the opportunity to provide information to the Finance and Public Administration Committee session on 12 September 2023, concerning the Land and Buildings Transaction Tax (Green Freeports Relief) (Scotland) Order 2023 (SSI 2023/Draft).

As is noted at section 23 of the Committee report (dated 22 September 2023), I committed to providing further information to Members on aspects of the Green Freeports programme – specifically, the definition of ‘underdeveloped land’ and the prevention of illicit activity – and on the selection of Investment Zones. The Committee also requested information on the following:

- whether [the Scottish Government] will provide guidance on how the tax reliefs will impact on forward funding structures;
- which specific definition of green jobs will be used to determine whether the jobs arising in green freeports are "green";
- the indicative timescale for finalising the monitoring and evaluation framework and whether that framework will include regular reporting to Parliament.

Information on each of those points is provided, in turn, below.

### **Underdeveloped land**

During the Committee session, it was explained that the Green Freeports are required to target tax measures on activity that takes place on underdeveloped land, and the Committee enquired about the definition of underdeveloped land.

The Green Freeports Bidding Prospectus Section 3.1.26 – which can be accessed at: <https://www.gov.uk/government/publications/green-freeports-in-scotland-bidding-prospectus> – notes that: ‘Tax sites should be “underdeveloped”, so that the tax measures support areas with economic potential rather than already economically successful sites.

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Under this broad, economic definition, empty land, brownfield land, under-utilised land with some construction and vacant premises are some examples of what might be considered “underdeveloped” so long as a good case is made’.

The Prospectus further notes that, when justifying how their sites are “underdeveloped”, applicants should consider three main criteria underpinning the definition:

- a. **underutilised**: tax sites should have sufficient viable but unoccupied physical space that is yet to be developed or used; to allow new or expanding businesses to construct, renovate, purchase or lease new premises in the Green Freeport
- b. **potential investment growth**: applicants should explain how Green Freeport status will lead to additional investment by new and/or existing businesses in the tax site(s) significantly above current levels
- c. **job creation**: applicants should evidence that their proposed tax site does not contain significant incumbent employment in relation to the local region. Applicants should then explain how Green Freeport status will lead to additional employment in the Green Freeport tax site(s) by new and/or existing businesses above current levels.

Scottish Green Freeport: Set Up Phase Guidance on the approach to developing the Green Freeports’ respective business cases has been published at <https://www.gov.uk/government/publications/scottish-green-freeports-set-up-phase-guidance>. The Guidance makes clear that Green Freeport tax measures should be targeted at encouraging development on land that requires remediation or assembly in order to become attractive to investors. Section 14.4 of that guidance provides further details on requirements in respect of tax site locations.

### Illicit activity

The Committee also asked about the potential for illicit activity in the Green Freeports, including tax avoidance and evasion. Scottish Government officials are working closely with the UK Government, including HM Revenue and Customs and HM Treasury, in the assessment of the Green Freeports’ business cases and the associated tax and customs site plans; which will include an assessment of the way in which the Green Freeports have addressed security issues. The Guidance to the Green Freeport consortia on business cases sets out the requirements of Green Freeports in relation to tax and customs site operations (web link provided above, see sections 12.5 and 8.1 in particular).

The requirements include:

- Green Freeports must adhere to the code of conduct for clean free trade zones, which is set out by the Organisation for Economic Co-operation and Development, and they must meet the requirements of UK anti-money laundering regulations.
- They must conduct a security and illicit activity risk assessment with local partners and security stakeholders, identifying mitigating actions and making clear where responsibilities lie.
- They will also undertake annual security audits, alongside ongoing HMRC-led compliance audits.
- Customs site operators must have the support of the Green Freeport governing body, and will require HMRC authorisation.

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## Investment Zones

As part of the consultation for the Regional Economic Policy Review, we received a vast amount of evidence that made clear the incredible capacity challenge faced by local authorities when asked to bid in to competitive interventions (whether for funding, like the Levelling Up Fund, or programmes of activity such as Green Freeports and Investment Zones). In response to this challenge, and in being sensitive to the multiplicity of other programmes of activity being delivered and bid into by local authorities, the UK Government and the Scottish Government made the joint decision to avoid yet another competitive approach to the newly announced Investment Zones.

Instead, Governments jointly developed an evidence led and objective place selection methodology for Investment Zones, which has been published. That publication can be accessed at: <https://www.gov.uk/government/publications/investment-zones-in-scotland-policy-model-place-selection-methodology/investment-zones-place-selection-in-scotland>. At no time did officials or Ministers from either Government make requests for bids or applications. Nor did Governments suggest that there would be criteria published ahead of place selection.

## Guidance on how the tax reliefs will impact on forward funding structures

Full guidance on the relief has been published by Revenue Scotland, setting out the circumstances in which relief is available. The guidance can be accessed online at: <https://revenue.scot/taxes/land-buildings-transaction-tax/lbtt-legislation-guidance/lbtt3001-exemptions-reliefs/lbtt3010-tax-reliefs/lbtt3049-green-freeports>.

In order to qualify for LBTT relief, a claimant must demonstrate that they meet the associated conditions. Should the relief be extended to buyers who do not meet those conditions, there would be operational, legislative and presentational implications. Taking this approach would represent a potentially unfair outcome for other buyers who either don't qualify for relief, or who have relief withdrawn after having claimed. This could create a lack of clarity on who is entitled to relief, resulting in uncertainty for taxpayers, and an additional administrative and compliance burden for Revenue Scotland. The approach that has been taken will ensure consistency with the comparable Stamp Duty Land Tax relief offer for Freeports in other parts of the UK.

## The definition of green jobs that will be used to determine whether the jobs arising in green freeports are "green"

As was discussed in the Committee session, tackling the climate emergency is crucial for Scotland, and to do so will require the creation of green jobs. The language on this subject is evolving, and there are a number of definitions of green jobs used by governments and other organisations. As the Green Freeports work towards the submission of Full Business Cases, they will develop more detail on their proposals. Their plans will include activity to grow sectors that support a transition to a net zero economy, and efforts to ensure the decarbonisation of the operations within the Green Freeports themselves. The business cases will provide details on the nature of the green jobs that the Green Freeport will deliver.

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## **The indicative timescale for finalising the monitoring and evaluation framework and whether that framework will include regular reporting to Parliament**

The monitoring and evaluation framework for each of the Green Freeports is being developed alongside their business cases. The Scottish Government is working closely with the UK Government and a consortium of external evaluation experts on this. The timescale for completion of the framework depends on the timescale for the delivery of each of the Green Freeports' business cases, so it is not yet possible to provide a definitive date: but we intend to ensure that detailed arrangements are in place by the time the Green Freeports open for business. Fieldwork to gather the core baseline data for each Green Freeport will begin in early 2024. This will provide a solid starting point so that data collected in future years can be compared to demonstrate impact.

In future years, once the baselining has been completed and the monitoring and evaluation framework has been established fully, Scottish Government and UK Government will publish the findings from data collected to provide a full picture of Green Freeports' progress.

I hope this information is helpful to the Committee.

**Tom Arthur**

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