

Date	02 December 2019
From	Scottish Land & Estates Stuart House Eskmills Business Park, EH21 7PB
Telephone	0131 653 5400
Email	gavin.mowat@scottishlandandestates.co.uk

Introduction

Scottish Land and Estates (SLE) is a member organisation representing the interests of Scottish land owners, farmers and estates. Our vision is for profitable land-based businesses able to contribute to resilient rural economies helping rural Scotland thrive. Tourism is a key part of the diverse mix of businesses in which our members are engaged. From campsites, to historic houses and from adventure destinations to luxury accommodation these are just some of the activities SLE members are involved in. You can find out more [here](#).

While we appreciate the need for continued investment in tourism infrastructure/facilities, we remain concerned whether a transient visitor levy is the effectual or equitable mechanism for accomplishing this. As we set out in our previous consultation response to the National Discussion on Transient Visitor Taxes in Scotland, the majority of our members are strongly opposed to the introduction of a tourist tax. In that response we questioned the merits of such a proposal particularly with the uncertainty of Brexit compounded by already rising costs squeezing the sector. In order to ensure that rural Scotland can thrive, it is our members' view that a tourist tax should not be implemented in Scotland at this time. SLE members feel strongly that the imposition of a tourist tax is a retrograde step that will damage what is already a price-sensitive sector, damaging business resilience and impacting on jobs and investment.

However, given this consultation concerns itself with the how a levy should be implemented rather than if it should be implemented, SLE is taking that position that if a tourist tax is to be applied, we would want it to be applied to visitors who spend least in the local economy. We have outlined our views in more detail below.

Q1. Do you think that the design of a visitor levy should be set out:

- a) wholly in a national framework**
 - b) mostly at a national level with some local discretion**
 - c) mostly at local level with some overarching national principles.**
- (Please provide a reason (or reasons) for your answer)**
-

SLE do not believe that the Scottish Government should proceed with the introduction of a tourist levy in Scotland. As we have previously outlined on the introduction of tourist tax, Scotland is already an expensive destination for visitors, with high VAT and other high prices putting Scottish businesses at a fiscal disadvantage to European counterparts. With a high proportion of employment in rural areas provided by private sector SMEs we remain concerned that placing additional burdens on the sector may have unintended consequences. Instead, we consider it more appropriate to address any specific pressures through more efficient spending of existing levies and additional funding such as the rural tourism infrastructure fund.

However, due to the firm commitment to legislate in Scotland, if a levy is to be introduced against the judgement of many within the industry, our preference would be to see a levy set out primarily at the national level with some local discretion. In our view, this would ensure that there is an appropriate balance and fairness between setting a national framework that provides clarity and allowing local authorities to tailor the levy for specific purposes most appropriate to their area. While not every local authority will wish to take forward this measure, having completely different schemes across Scotland

would add to complexity and bureaucracy and could ultimately lead to businesses in certain areas being disadvantaged purely based on their postcode.

Q2. Is an overnight stay in commercially let accommodation an appropriate basis for applying a levy on visitors?

Yes

No

Don't know

(Please provide a reason (or reasons) for your answer)

SLE members consider a tax on overnight visitors to be particularly inequitable. This is largely due to the fact that such a scheme would penalise certain types of visitor (those using paid overnight accommodation) and certain types of businesses (accommodation providers). This approach is viewed as especially unfair as it will not impact on visitors who already use local infrastructure/facilities without paying back into the local economy by staying in local accommodation. We therefore wish to explore if it would be feasible for a visitor levy to be imposed (rather than extended) to other visitor activities/attractions instead of for overnight stay in commercial accommodation.

Tourism taxes add cost and complexity to a sector that already runs on tight margins and the responsibility of collection generally falls on commercial accommodation. While SLE accepts that implementing a levy beyond commercially let accommodation would incur significant practical issues relating to enforcement, it is our belief that this would be more justifiable than an additional tax for those already paying to stay in accommodation.

Q3. Which of the following activities do you think a visitor levy could be robustly applied to and enforced, and how?

Day visitors not staying overnight (please explain how)

Cruise ship passengers who disembark for a day before re-joining the vessel (please explain how)

Wild or rough camping, including in motorhomes and camper vans (please explain how)

SLE is of the view that there are a number of ways to target non-accommodation based levies in a way that is more equitable. We have summarised these options as follows:

- Entry fees (e.g. road tolls) - Road tolls, with exemptions for locally registered vehicles, might be a more equitable approach as it would capture day visitors, tour operators and motorhomes that overnight accommodation would not.
- Car parking charging – Charging for car parking at tourist sites and for overnight motorhome parking. This could provide income to help mitigate issues such as verge damage and waste dumping etc. However, there is a danger this could result in more roadside and verge parking as people try to avoid charges if the facilities are not adequate.
- Motorhome permits – Requiring visitors to have a 'Motorhome Permit', enforced through the local authority's car parking enforcement network could ensure that motorhome users contribute to the infrastructure they use and impact they have.
- A levy on other 'tourism businesses' – If an accommodation levy is introduced, non-accommodation operators should also be required to charge day visitors. For example, at visitor attractions, activities and tour providers. Some SLE members were concerned that events were already "easy targets" for tax – police charges, unexpected rates etc., and that visitor attractions were very price sensitive.
- Cruise visitors – Charging a levy on cruise operators for visitors should be relatively simple to implement and administer if it is collected by the tour operator or port authorities who are already required to report visitor numbers. Some in SLE pointed out that the cruise industry is already subject to tax and that setting Scotland apart from other nations as somewhere that taxes cruise passengers will only serve make Scotland a less attractive destination.
- Air passenger duty – In the context of the 'Climate Emergency' placing a levy on air passengers (incoming and outgoing) should be considered. It should not be prohibitively expensive but a small fee spread across the millions of passengers going through Scottish

airports every year. Exceptions could be made for emergencies and residents flying to and from remote islands, for example.

While the overnight accommodation approach might be more realistic for cities, SLE members do not consider it is appropriate or fair for rural areas. However, as we have outlined, there are problems which must be carefully considered before implementing any levy on any of the other options. It may be appropriate for the local authority to publish a 'statement of need', for example, which can clearly evidence the requirement to tackle a specific problem in the geographic area and how a proposed levy would help address that problem.

Q4. The consultation paper sets out four options for the basis of the charge (section 5.1). Which one do you think would work best in Scotland?

Flat rate per person per night

Flat rate per room per night

A percentage of total accommodation charge

Flat rate per night dependant on the quality of accommodation
(please provide a reason (reasons) for your answer)

As we have noted in our response to question 3, we do not consider the option for a charge on overnight accommodation to be equitable, particularly in a rural context.

If there was to be a levy based on overnight accommodation, SLE believes the option of a percentage of the total accommodation charge would appear to be the best option for the self-catering sector (B&B and short term lets) and for hotels. We do not consider it appropriate to place a levy on campsites – Holiday parks and campsites account for some 8.4% of Scottish tourism GVA, generating £772.3m visitor expenditure, £478.2m GVA and supporting 14,301 FTE jobs (*UK Caravan and Camping Alliance (2019), Pitching the Value Report. Available at: <https://www.ukcca.org.uk/>*) and their customers are highly price-sensitive. We consider the other options are more regressive in nature and all contain difficulties for the sector.

Some in SLE did raise concerns with the idea of a levy as a percentage of a total accommodation cost. Difficulties with calculating a percentage where visitors take accommodation as part of a package and the complication of commission and third party providers were cited. There was a suggestion that a flat per night levy would be easier to administer.

Q5. In addition, for each option in Q4 what are: the considerations for accommodation users, accommodation providers and local authorities?

SLE is of the view that these options largely fail the test of proportionality as it would take no account of an individual's ability to pay. We consider that the tax burden for the flat rate options would fall disproportionately upon those least able to pay. For example, a family of four on holiday in self-catering accommodation for a fortnight would be expected to pay 56 times more (14 nights x 4 people) than one businessperson staying overnight in a hotel, most likely being paid for by the employer.

Also, campsites, for example, provide a pitch to accommodate a family in a tent for as little as £15 per night. The market is extremely price sensitive such that increasing by say £2 per adult per night, would mean 26.6% higher price, sufficient to deter custom or drive it to web platforms such as 'Camping in my garden'. Any flat rate applied to such accommodation would be wholly inequitable and SLE urges that if a levy is applied to overnight accommodation that caravan and campsites should be exempt.

While we consider all these options to be inequitable. We prefer the percentage of the total accommodation charge option for the reasons we have set out above. We would also encourage Scottish Government to take cognisance of the five areas of good practice provided by the European Tourism Association (ETOA) to: competitiveness, reciprocity and transparency, notice, consultation and payment process when devising any tax.

Q6. Do you think that the basis of the charge should be set out in a national framework, or be for a local authority to decide?

Set out in a national framework

Decided by local authorities

Don't know

(please provide a reason (reasons) for your answer)

The basis of the charge should be set out in a national framework. Our preference would be for a nationally agreed formula but one that recognises different local needs, for example, between urban and rural. It would be useful to have regional discretion, for example, in removing or reducing the levy over the off-peak season (perhaps from November to February).

Q7. Do you think that the rate of the visitor levy should be set out in a national framework or should it be for the local authority to decide?

Set out at national level

Decided by local authorities

Don't know

(please provide a reason (reasons) for your answer)

The rate of the visitor levy should be set out in a national framework. A nationally guided framework would ensure equity in the scheme but also acknowledge the different challenges facing urban, rural and islands, with local authorities having an element of flexibility depending on the specific challenges they face in regard to tourism.

Nonetheless, at all times, the government must be aware of the cumulative effect of local taxes on Scotland's competitiveness as an international destination and the rate should be set at a level that is not prohibitive and maintains Scotland's place as a leading tourist nation. Our members want to ensure that Scotland continues to offer high quality tourism and that means good transport, roads, rubbish collection, parking etc. However, there is a real risk that at a time of constrained public finances at a local government level, a tourist levy is simply viewed as a means of raising revenue by local councils and not reinvested into the sector.

Q8. What factors should be considered to ensure the rate of the visitor levy is appropriate?
(please provide a reason(s) for your answer)

The rate should not be prohibitive so as to damage Scotland's place as a leading tourism nation. Any levy should be based on robust evidence and subject to a rigorous independent economic impact assessment. It needs to be seen as representing strategically planning investment in the tourism sector. In particular, the following should be considered:

- The high level of VAT currently applicable in Scotland – the second highest in Europe.
- The fact that the UK is 140th out of 140 in international tourism competitiveness terms.
- The negative impact on economic growth – in both the local and wider economy.
- The UK is already seen as an expensive destination and a tourist tax will add to that negative perception.
- Around 60% of Scotland's tourism spend comes from our already squeezed, heavily taxed domestic visitors and this percentage is even higher on Scottish holiday parks. It is known that domestic holidays within the UK are highly responsive to changes in price.
- The negative impact on Scotland's reputation as a welcoming country.
- The economic uncertainty arising from Brexit.
- The possibility of tourism businesses deciding to minimise their administrative burden by reducing/removing their accommodation offering to visitors. For example, parks may decide to stop providing touring pitches or accommodation to hire and to focus more on private sales of holiday homes. This could result in an increase in wild camping/inappropriate motorhome parking problems, which local authorities are unable to resolve at the present level.

- Taxing touring parks will inevitably increase the level of inappropriate 'rough' camping and the environmental issues this engenders
- The likelihood of a decrease in the number of visitors or visitors spending less/reducing the length of their stay if they're being charged a tourist tax and the knock-on effect on a wide variety of businesses servicing visitors, as well as on accommodation businesses.
- The ease by which unscrupulous visitors might defraud an untested system in the absence of any identity checking being undertaken.
- Business income spent on taxation and its collection will not be available for investment in quality or in increasing workforce skills, both of which are necessary to remain competitive.
- Cost to tourism businesses and local authorities in collecting the tax vs. the revenue obtained.
- Impact on the turnover of businesses if they are unable to pass on the cost of the tax to their customers.
- The requirement to avoid increasing the financial barrier to family holidays for those on low income

Q9. If the rate of the visitor levy were to be set by individual local authorities, should an upper limit or cap be set at a national level?

Set out at a national level

Decided by local authorities

Don't know

(please provide a reason(s) for your answer)

The upper limit should be set at a national level. Again, the government must be mindful of the cumulative effect of local taxes on Scotland's competitiveness as an international destination.

Q10. Do you think that all exemptions should be the same across Scotland and therefore set out in the national legislation, or should local authorities have scope to select some exemptions?

All exemptions should be the same across Scotland and local authorities should not have any discretion

Some exemptions should be set at national level, and some should be at the local authority's discretion

For fairness in the system, the some exemptions should be set out at national level, but in areas where there are obvious differences in the demands and pressures from the tourism sector in different areas, local authorities should have some discretion (which can be prescribed at national level). For example, the Highlands may look to levy motorhomes, but in Edinburgh the priority might be on overnight accommodation.

Q11. Which additional exemptions from the list below do you think should be applied to a visitor levy?

Disabled people and registered blind/deaf and their carers

Those travelling out with their local authority area for medical care, and their carers or next of kin

Children and young people under a certain age

Students

Long stay guests (e.g. people staying for more than 14 days)

Business travellers

Local resident (paying for overnight accommodation within the local authority in which they reside permanently)

We do not wish to include too many exceptions as we consider that doing so would unnecessarily complicate implementation.

**Q12. Are there any other exemptions that you should apply?
(please list together with reasons)**

If a levy on overnight accommodation is to be imposed, SLE is of the view that camping accommodation should be excluded. This is primarily because feedback from our members suggests that applying an overnight levy would disproportionately push up prices for relatively low-cost accommodation. This would be seen as a regressive tax where even a lower rate could have a serious impact on the number of campers.

Furthermore, many campsites already provide parking, services such as toilets, showers, chemical toilet disposal facilities, electric points, sewage treatment and roads etc. Therefore, such sites are unlikely to benefit from spending of any of the funds raised from the levy.

Q13. What is your view of the proposal that accommodation providers should be ultimately responsible for the collection and remittance to the appropriate local authority, even if the tax is collected by a third party booking agent or platform?

Agree

Disagree

(please explain and provide any other comments on this proposal)

We do not agree that overnight accommodation should be the focus of the levy as we have explained in questions 3 and 4. However, if this is the preferred choice, we consider the levy should be subject administered by a system of collection that is designed in partnership with accommodation providers.

Q14. If accommodation providers were required to remit visitor levies after the overnight stays to which they relate (even if the payment was made well in advance) how frequently should the levies collected be required to be remitted to the levying local authority?

Ongoing basis (e.g. each night)

Monthly

Quarterly

Annually

(please provide a reason (or reasons) for your answer)

It will be necessary for accommodation providers to collect information from visitors to apply that visitor levy correctly and retain records to demonstrate compliance. This information may vary depending on the basis of the charge. It will be essential that local authorities and accommodation providers comply with General Data Protection Regulation (GDPR) in handling personal data.

Levies should be remitted to the local authority annually as some accommodation businesses may not have the funds to pay the tax until the end of the season, or many months later.

Q15. What information should an accommodation provider be required to collect and retain to ensure compliance?

Please list below and explain why you think that information is needed for the four different scenarios below

a) flat rate per person per night

b) flat rate per room per night

c) percentage of total accommodation charge

d) flat rate per night dependant on the quality of accommodation

SLE does not support the introduction of a tourist tax in Scotland. All of the options will lead to an even greater level of bureaucracy for accommodation providers in terms of the day to day running of their business when they already have to deal with numerous demands on their time from a regulatory perspective. For the SLE's preferred option, we believe that the information required would be the figures relating to the overall accommodation cost paid by the visitor and the income generated and there would need to be clarity on how such a levy would be calculated where visitors take accommodation as part of a package or whether fees will be calculated to include commission for third parties etc.

a) flat rate per person per night

2. Details of all persons and all nights would be required to be recorded which is not always available e.g.:
- where the individual check-in fails to declare all the people in their party
 - where customers are using their privately-owned caravan on a pitch unless rightly these are excluded from the definition of commercially let accommodation.
 - Airbnb.

b) flat rate per room per night

3. In addition to a clear definition as to what is meant by a 'room', details would be needed as to all nights let, which again is not available to the business in all cases.

d) flat rate per night dependant on the quality of accommodation

4. Unworkable without mandatory grading of all 'commercially let accommodation' however defined and would disincentive investment in quality.

Q16. How can a local authority choosing to apply a visitor levy ensure it has a comprehensive list of all those providing overnight accommodation on a commercial basis in their local authority area?

(please provide a reason(s) for your answer)

We note that the Scottish Government are currently considering a registration system for short-term lets as part of a separate consultation. A registration system will have to be established by any local authority seeking to introduce the levy. This should be free but compulsory.

Any list must be full and comprehensive so as to not disadvantage one sector against another. For example, commercial holiday parks will have a site licence issued by the council and therefore will be on the list, however, collaborative economy providers will not have a licence nor pay business rates and so may be unknown to the local authority. In addition to the well-known Airbnb, collaborative platforms are constantly established – e.g. camping in my garden.

The resources necessary to employ revenue officers to check every website and brochure to ensure fairness in the application of the tax is likely to be greater than the tax generated. This means that the likely result could be that councils punish bona fide businesses whilst provide a competitive advantage to businesses which trade without planning consent, licences or paying business rates.

Q17. What enforcement powers should a local authority have to ensure compliance and prevent avoidance and evasion by accommodation providers?

(please provide a reason(s) for your answer)

The sanction, through use of a fine, should be set at a level that is a multiple of the evaded levy so to act as a deterrent. In the interest of fairness, under such a levy we would expect the local authority to have powers to ensure motorhomes etc. do not park on the side of the road otherwise you will create a two-tier system with some visitors paying tax and others avoiding paying anything by not staying in paid for sites.

Q18. Should non-compliance by an accommodation provider be subject to a civil penalty (i.e. a fine) and if so, what would be the appropriate level?

Yes

No

Don't know

(please state the level of civil penalty (fine) (in £ pound sterling) that you think is appropriate)

As per our answer to the previous question, this should be set at a levy that is a multiple of the evaded levy.

Q19. A list of requirements that local authorities could be expected to meet before being able to introduce a visitor levy is summarised below.

Do you agree or disagree with the options?

(if you have any other suggestions for requirements then please add these in the box together with your reasons)

	Agree	Disagree
Produce an initial statement of intention to consider introducing a visitor levy	✓	
A timeframe for introduction of at least one financial year following conclusion of consultation and engagement activities	✓ (preferably 18 months)	
Have held a consultation in their local area to gather views from all those who will be affected by the visitor levy	✓	
Have conducted the required impact assessments	✓	
Have assessed the administrative burden on businesses and taken steps to minimise this	✓	
If the legislation allows the rate to be set locally the local authority has demonstrated why the chosen rate of the visitor levy is optimal for that area	✓	
Have appropriate mechanisms in place to allow visitor levies collected to be remitted to the local authority	✓	
Have made information about the visitor levy and how to pay it available and in the public domain, for both business and visitors	✓	
The approach to collaborative decision making on revenue spending is set out in the public domain	✓	
Establish an approach to monitoring and publicly reporting revenues raised and their expenditure on an annual basis	✓	
The approach to monitoring and reporting on the impact of the visitor levy on an annual basis, is clearly set out in the public domain	✓	
Establish an approach to evaluating and publicly reporting, the impact of the visitor levy, within a reasonable period after introduction	✓	

(please add any other comments on the requirements listed above)

(please list any other requirements you think might be necessary, together with reasons)

Given the importance of the sector to local economies, the introduction of a tourist levy should be subject to all of the requirements listed in the table above.

Q20. Should Scottish Government be able to prevent a local authority from applying a visitor levy?

Yes

No

Don't know

Q21. Under what circumstances should Scottish Government be able to do this?

(please provide a reason(s) for your answer)

The Scottish Government should be able to prevent a local council from applying a visitor levy if they have not followed all the necessary steps as outlined in the table above. Also, if local authorities can show that their needs in providing infrastructure etc., for tourism have been met then it should be possible for the Government to withdraw the need for the levy. This could be done through an external assessment of tourism facilities/infrastructure in a local authority area. We would expect that if there is a discernible downturn in the tourism industry then the Government should be able to prevent the implementation of a levy.

**Q22. What requirements might be placed on local authorities to engage with local stakeholders to determine how revenues are spent?
(please provide a reason(s) for your answer)**

This should be done through sustained and thorough consultation, discussion and engagement with stakeholders in advance of implementation, with a requirement of annual reports on revenues collected and clear details of where the money has been spent. Any revenues should only be used towards tourism related infrastructure, not for general spend, and this should be a requirement enshrined in law.

**Q23. How might this engagement be best achieved?
(please provide a reason(s) for your answer)**

A consultation with local tourism and business stakeholders could be targeted effectively if local authorities established a full register of all tourism businesses (including those operating outwith, planning, non-domestic rates or licencing arrangements) in their area beforehand.

Q24. Should revenues from a visitor levy be allocated to priorities articulated through local tourism strategies, where they exist?

Yes

No

Don't know

(please provide a reason(s) for your answer)

The revenues from any visitor levy should be ringfenced for tourism related infrastructure in the specific local authority, as set out in the Scottish Government's consultation document; and any local authority wishing to take forward the levy must highlight where they intend to allocate any revenues in their tourism strategy. As the ETOA state, "unless intelligent investment follows and services improve, visitors may conclude that it is only their money that is welcome and may go elsewhere. Tourism is integral to destinations' success and should be treated accordingly."

**Q25. What reporting arrangements might be required of local authorities to account for the expenditure of receipts from a visitor levy?
(please provide a reason(s) for your answer)**

We expect local authorities to provide full, transparent accounting of the income and expenditure of receipts for a visitor levy. An annual report should be produced and issued to all stakeholders showing revenues generated from visitor levy and the accounted allocation of the funds.

Q26. If a local authority was to impose a visitor levy on a specific area within the authority, should any revenue raised have to be spent only in that area?

Yes

No

Don't know

(please provide a reason(s) for your answer)

Similar to previously expressed view, any revenue raised should only be used in that specific area for tourism related infrastructure spend. And this spend should demonstrate value for money.

Q27. Is the name 'visitor levy' appropriate for the new powers proposed in the consultation document?

Yes

No

Don't know

(please provide a reason(s) for your answer)

We consider it should be called 'tourist tax' to avoid confusion.

Q28. If not, what do you consider to be a better alternative and why?

We consider it should be called 'tourist tax' to avoid confusion.

Q29. What requirements should apply to ensure accommodation prices transparently display a visitor levy?

(please provide a reason(s) for your answer)

SLE believe that this should be at the discretion of the operator of that business, as per current practice relating to accommodation prices.

A requirement should be placed on Local Authorities wishing to impose costs on the customer so that they do not jeopardise the business's legal position. E.g. If accommodation is reserved and paid for in advance of a local authority choosing to impose or vary a tourist tax for the period in question, the tax (or the increase to the tax) should not apply as this would breach consumer protection requirements.

Research shows that 64% of holiday park publish a print brochure. Requirements are necessary to ensure the tax rates are announced well in advance so, for example, a small business publishing a brochure for 2024 holidays, would need the tax rates confirmed by 1 August 2023 at the latest.

If this cannot be ensured then e.g. where the local authority sets or changes the rate/s of their tax after tourism businesses have published brochures, websites etc, the local authority should be required to meet the redesign and reprinting costs for brochures, fees to update websites etc to ensure the transparency of their imposition and adhere to consumer protection legislation.

Q30. What, if any, transition arrangements should apply when accommodation is reserved and paid for in advance of a local authority choosing to impose, or subsequently vary, a visitor levy for the period the accommodation is let?

(please give a reason(s) for your answer)

If accommodation is reserved and paid for in advance of a local authority choosing to impose or vary a tourist tax for the period in question, the tax (or the increase to the tax) should not apply as this would breach consumer protection requirements.

We would recommend that there is a lead in time of 18-24 months. Anything less than one year would be unacceptable. This will give adequate time for those booking in advance of the change in regulation.

Q31. Should these transition arrangements be set out in a national framework or be decided by local authorities?

Set out in a national framework

Decided by local authorities

Don't know

(please provide a reason(s) for your answer)

The transition arrangements should be set out in a national framework for clarity and consistency.