

Visitor Levy (Scotland) Bill

The Federation of Small Businesses (FSB) is Scotland's leading business organisation and aims to help smaller businesses achieve their ambitions. These micro, small and medium businesses comprise almost all enterprises in Scotland (99%), employ 1.2 million people and contribute £110bn to the economy.¹

We welcome the opportunity to respond to the Local Government, Housing and Planning Committee's call for views on the Visitor Levy (Scotland) Bill.

1. What are your views on whether local authorities should have a power to place a levy (a type of additional charge or fee) on top of the price charged for overnight accommodation in their area?

Scotland's small business base is hugely diverse. This was evident when we carried out our Big Small Business Survey earlier this year which analysed the broad range of topics that affect businesses, with the key takeaway in many cases being that there was no overwhelming majority for one answer over others.² This is also true when addressing the views of our members when it comes to the Scottish Government's introduction of a Visitor Levy.

Tourism is an important part of the Scottish economy, supporting over 200,000 jobs and contributing £4.5 billion to Scotland's gross value added (GVA).³

Scotland's tourism sector, whilst a strong asset to the economy, however, has borne the brunt of the challenges for businesses over the last few years, from Covid restrictions, to staffing issues, to the current cost-of-living and doing business crisis. Small businesses (0-49 employees) account for the vast majority (93%) of registered businesses in the accommodation sector with large businesses (250+ employees) comprising just 2%.⁴ Therefore, visitor levies must be designed to reflect the perspective of small businesses.

¹ <https://www.gov.scot/publications/businesses-in-scotland-2022/pages/headline-results/>

² <https://www.fsb.org.uk/resources-page/big-small-business-survey.html>

³ <https://www.gov.scot/publications/growth-sector-statistics/>

⁴ <https://www.gov.scot/binaries/content/documents/govscot/publications/impact-assessment/2023/05/visitor-levy-bill-business-regulatory-impact-assessment/documents/visitor-levy-scotland-bill-business-regulatory-impact-assessment-bria/visitor-levy-scotland-bill-business-regulatory-impact-assessment-bria/govscot%3Adocument/visitor-levy-scotland-bill-business-regulatory-impact-assessment-bria.pdf>

Our survey found that when asked “do you support the introduction of a local Visitor Levy?”, just over half (51%) of responding SMEs said no. 69% of businesses in the Accommodation and Food Service Activities sector were opposed.⁵

As part of the consultation process, we held a roundtable discussion with FSB members across the country. A key concern highlighted was that the Scottish accommodation sector is already highly taxed⁶ when compared to other European countries. It was therefore feared that the introduction of a Visitor Levy could risk making Scotland less competitive internationally and domestically and also incur additional costs for already struggling businesses.

There are almost 3,000 accommodation services businesses registered for VAT in Scotland, meaning their annual turnovers are above the VAT threshold of £85,000. There are a further 2,000 to 3,000 smaller operators who aren’t VAT registered – roughly two fifths to a half of all Scotland’s accommodation providers.⁷ However, the addition of a Visitor Levy may mean some businesses will be pushed over the VAT registration threshold, thus obliging them to register for VAT, with all the cost and administrative burdens that entails.

We would ask government to consider raising the VAT threshold, particularly in response to the Visitor Levy. To help businesses, government could consider raising the VAT threshold from £85,000 to £100,000. This move could cushion the risk of some accommodation providers being brought into VAT registration as a direct result of a Visitor Levy.

2. Given that the Bill is likely to result in different councils introducing a Visitor Levy in different ways or not doing so at all, what impact do you think the Bill will have in your area and across different parts of Scotland? For example, this could include any impact (positive or negative) on local authority finances, local accountability and flexibility, businesses, or on numbers of overnight visitors.

FSB Scotland welcomes the flexibility in the approach to the Visitor Levy as we believe one size cannot fit all when it comes to the diverse needs of local authorities and their respective business communities.

⁵ <https://www.fsb.org.uk/resources-page/big-small-business-survey.html>

⁶ <https://digitalpublications.parliament.scot/ResearchBriefings/Report/2023/9/4/188fd140-9ade-4984-b2ef-812cb51bd118>

⁷ <https://www.gov.scot/binaries/content/documents/govscot/publications/impact-assessment/2023/05/visitor-levy-bill-business-regulatory-impact-assessment/documents/visitor-levy-scotland-bill-business-regulatory-impact-assessment-bria/visitor-levy-scotland-bill-business-regulatory-impact-assessment-bria/govscot%3Adocument/visitor-levy-scotland-bill-business-regulatory-impact-assessment-bria.pdf>

Our survey found that two fifths of Scottish SMEs believe the introduction of a local Visitor Levy would have a negative or slightly negative impact on their business and local economy.⁸

When dissecting these figures by sector, we found businesses in the Arts, Entertainment and Recreation sector were most likely to believe the introduction would have a positive impact, comprising 29% of those who chose this response. Whereas businesses in the Accommodation and Food Service Activities sector were most likely to believe the introduction would have a negative impact, comprising 36% of those who chose this response.

There is scope in the Bill for a local authority to be able to set different rates in relation to particular events, "such as arts festivals or special conferences".⁹ Such flexibility would suggest it is also possible for different rates to be in place at different times of the year, for example during peak season and non-peak season. During our roundtable discussion there was general consensus in favour of this range of flexibility, however, there remains some concern around the administrative burden it could incur – this is outlined in more detail in our response to question 4.

3. Do you agree with the Bill’s definitions of a “chargeable transaction” and of “overnight accommodation”? If not, what definitions do you think would be better?

FSB Scotland agrees with the definition of a “chargeable transaction” in the Bill. The current definition of “overnight accommodation” included in the Bill is not an exhaustive list, with the explanatory notes outlining that “the provision of a cabin on a ferry or a sleeper train, or the hiring of a campervan, will not typically be subject to a levy.” We are concerned that this could create an uneven playing field across the various types of accommodation providers.

With the levy being chargeable on the overnight parking of a campervan at a campsite, some members have raised concerns that this could discourage visitors to their campsites, losing valuable business in already tough times. In turn, there was concern this could potentially exacerbate the problems caused by wild camping in parts of Scotland’s rural and island communities. We note that, of the accommodation providers surveyed as part of the BRIA accompanying the Bill, only one campsite was surveyed.¹⁰ We are therefore concerned

⁸ <https://www.fsb.org.uk/resources-page/big-small-business-survey.html>

⁹ <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/visitor-levy-scotland-bill/introduced/explanatory-notes-accessible.pdf>

¹⁰ <https://www.gov.scot/publications/visitor-levy-bill-business-regulatory-impact-assessment/documents/>

that the BRIA has not been as comprehensive as it possibly could have been, particularly in relation to the impact a levy could have on campsite businesses.

We welcome the commitment within the Policy Memorandum accompanying the Bill that a cruise ship levy is to be considered separately by the Scottish Government in the future.¹¹

4. What are your views on the Bill's proposal to allow councils to set the levy as a percentage of the chargeable transaction? Are there any other arrangements that you think might be better? If so, please give examples and a short description of the reasons why.

FSB members had different opinions when it came to the charging model put forward as part of the levy. We therefore believe that it is important to capture and consider the range of views put forward by Scotland's small business community.

Some of FSB's membership raised concerns that a percentage charging model could become complicated and burdensome. Our survey found that over a tenth of Scottish small business already spend more than eight hours per week – equivalent to a full working day – on regulatory compliance.¹²

To work out a percentage rate to charge for the levy on a customer's accommodation bill would involve separating the accommodation element from other charges such as food and drink, and use of facilities. As a result, all accommodation bills would need to be separated, with a breakdown of accommodation costs and non-accommodation costs to be submitted to local authorities for monitoring and auditing purposes, as well as additional data on costs when there are exemptions recorded. Combine this with ascertaining exemptions, charging different rates throughout the year and during various events, and this could lead to a significant administrative burden on accommodation providers.

On the other hand, we understand the importance of empowering local authorities through fiscal autonomy and moving away from a "one-size fits all" approach. Some of our members preferred the flexibility that a percentage charge would allow, recognising there are advantages to this funding model. In particular, it would allow for proportionality to be applied to the cost of accommodation, and therefore better reflect the amount of money a visitor is able to spend on accommodation. However, we would like to see a national maximum cap introduced.

¹¹ <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/visitor-levy-scotland-bill/introduced/policy-memorandum-accessible.pdf>

¹² <https://www.fsb.org.uk/resources-page/big-small-business-survey.html>

As it currently stands, the Bill does not restrict what rate can be set by local authorities. The modelling used in the BRIA assumes a range of possible rates from 1% to 7%.¹³ We feel it is important that Visitor Levy rates are set at a level to ensure that Scotland remains a competitive visitor destination, particularly given the current cost of living crisis equating to people having less disposable income.

5. What are your views on the absence of an upper limit to the percentage rate (which would be for councils to decide) and that it could be different for different purposes or different areas within the local authority area, but not for different types of accommodation?

As outlined above, FSB Scotland believes that there needs to be a national agreed upper limit to the percentage rate that can be charged by local authorities. The BRIA acknowledged that “there is a risk of negative economic impacts arising from the introduction of additional taxes on the visitor economy in local areas.”

The tourism sector has weathered a difficult and persistent storm from Covid-19 to present day. Our Big Small Business Survey found that over three fifths of businesses that reported a decrease in turnover in the last year attributed this to either the cost-of-living crisis or overall economic uncertainty.¹⁴ With continued economic pressures of record inflation and rising energy prices, a Visitor Levy could add an additional financial burden for businesses at a particularly vulnerable time for operations.

We believe a national cap strikes the right balance between allowing for local flexibility and ensuring that punitive rates are not introduced.

6. The Bill would allow councils to apply local exemptions and rebates to some types of guests if they choose to. It also allows the Scottish Government to set exemptions and rebates on a national basis where it considers it appropriate. What are your views on the Bill’s proposals in relation to exemptions and rebates?

FSB supports the Bill in allowing the Scottish Government to set exemptions and rebates on a national basis. However, as the Bill currently stands, the exemption scheme is lacking any real detail on how it will be administered.

¹³ <https://www.gov.scot/publications/visitor-levy-bill-business-regulatory-impact-assessment/documents/>

¹⁴ <https://www.fsb.org.uk/resources-page/big-small-business-survey.html>

Our roundtable discussion highlighted that questions remain on how proof will be ascertained and applied. The exemption and rebate process must be as simple as possible for both businesses and visitors, to avoid unnecessary confusion and administrative burden.

FSB welcomes the commitment within the Policy Memorandum which sets out that if accommodation is used for residential purposes, then people such as refugees, domestic abuse survivors, the gypsy/travelling community, and homeless people will automatically not need to seek exemption from a Visitor Levy charge.¹⁵

7. Do you agree with the Bill's requirements around the introduction and administration of a Visitor Levy scheme, including those relating to consultation, content, and publicity (Sections 11 to 15)? Are there any other requirements you think should be met before any introduction of the levy in a given area?

N/A

8. What are your views on the Bill's requirements for local authorities in respect of records keeping, reporting, and reviewing?

FSB strongly supports the Bill's requirements for local authorities in respect of records keeping, reporting, and reviewing. We are particularly pleased to see the commitment that local authorities must report annually on any scheme introduced, with information published on the amount of money raised, how funds have been spent and progress towards the objectives of the scheme. A review of schemes to be conducted every three years is also welcome.

Full accountability and continuous transparency are key to the success of the scheme.

9. The Bill requires that net proceeds of the scheme should only be used to "achieve the scheme's objectives" and for "developing, supporting, and sustaining facilities and services which are substantially for or used by persons visiting the area of the local authority for leisure purposes." Do you agree with how the Bill proposes net proceeds should be used and if not, how do you think net proceeds should be used?

¹⁵ <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/visitor-levy-scotland-bill/introduced/policy-memorandum-accessible.pdf>

FSB welcomes the Bill's commitment that the net revenue raised from a Visitor Levy scheme would be used to develop, support, or sustain local facilities and services. We also support the restrictions put in place to prevent local authorities using money raised from a Visitor Levy to be added to general funding. FSB strongly believes any revenue from the levy should be aligned with the needs of local businesses, particularly as it will be accommodation providers who administer and collect the funds. This was the general consensus during our roundtable discussions.

When asked as part of our Big Small Business Survey "if a Visitor Levy was to be introduced, what would you like to see the revenue spent on?" we received the following responses:

- 62% infrastructure - road maintenance and transport links
- 60% facilities – public toilets, bins, parking spaces
- 54% upkeep of local area/street cleaning
- 46% business support
- 32% local events/festivals/attractions
- 31% increased local facilities – libraries, community buildings, park areas etc.
- 26% tourism marketing

These results show a desire from SMEs to see any revenue raised used as a force for growth in their local areas, particularly in terms of investing in infrastructure which will make a location more attractive to tourists.

It is imperative that small businesses are included in spending decisions by local authorities when addressing where the levy money would be best spent. SMEs should therefore be a part of any official working groups or committees taking these decisions, to ensure that small businesses are not considered an afterthought in the decision-making process around how revenue is spent. This aligns with the commitments set out by the Scottish Government as part of the New Deal for Business.¹⁶

10. What are your views on the Bill's requirements for accommodation providers to identify the chargeable part of their overnight rates, keep records, make returns, and make payments to relevant local authorities? Are there any other arrangements that you think would be better, for example, by reducing any "administrative burden" for accommodation providers?

¹⁶ <https://www.gov.scot/publications/new-deal-business-group-progress-report-recommendations/pages/1/>

As outlined in our response to question 4, our survey found that over a tenth of Scottish small business spend more than eight hours per week – equivalent of a full working day – on regulatory compliance.¹⁷ We are concerned that the Bill's requirement for accommodation providers to identify the chargeable part of their overnight rates, keep records, make returns, and make payments to relevant local authorities could increase administrative burdens on small businesses.

FSB recommends simplifying this process further to alleviate potential onerous work for SMEs. This could include reconsidering the frequency required for submissions to be made to local authorities to reduce the number of returns having to be done in a year.

It also imperative that local authorities create a simple and easy-to-use process, which is digital first, for accommodation providers to submit levy payments in order to reduce the administrative burden and risk of potential penalties for accommodation providers.

11. Do you have any comments on Part 5 of the Bill (Enforcement and Penalties and Appeals)? Are there any other arrangements that you think might be more appropriate in ensuring compliance and reducing the risk of avoidance?

Part 5 of the Bill provides considerable detail on granting local authorities powers to obtain information, inspect business premises, impose penalties, and recover unpaid amounts. While we appreciate this is a tax and not a voluntary contribution and will therefore be enforced similarly to council tax or non-domestic rates, we are concerned that the enforcement and penalties set out in the Bill risk being disproportionately harsh on small businesses. We are concerned that the power to inspect a business premises in relation to the Visitor Levy is a step too far.

Given the current complexities around the percentage charging model, and scope for varying rates throughout any given year by a local authority, there is a concern that local authorities could be overzealous in their approach to businesses who may fail to meet the requirements as they adjust to implementing levy charges. It must also be recognised that some businesses could be operating across multiple local authority areas and require additional support, rather than enforcement, to implement the scheme.

FSB recommends support over enforcement for Scotland's small business community. As outlined throughout our response, this levy will impact SMEs who provide accommodation in their area. They will be taking on financial and administrative changes, which could

¹⁷ <https://www.fsb.org.uk/resources-page/big-small-business-survey.html>

potentially result in additional burdens and costs to their business operations. This levy should not create undue stress in enforcing penalties for any mistakes that could be made.

12. Do you have any comments on the issues that the Scottish Government proposes to deal with in regulations after the Bill has been passed? (Set out in the Delegated Powers Memorandum) Are there any that you think should be included in the Bill itself rather than being dealt with by regulations and if so, why?

N/A

13. Do you have any comments on the accuracy of the estimated costs for the Scottish Government, local authorities, accommodation providers and others as set out in the Financial Memorandum and Business and Regulatory Impact Assessment (BRIA)?

As outlined in our response to question 1, FSB are concerned about the VAT treatment of the Visitor Levy, as confirmed in Minister Tom Arthur's letter to the Local Government, Housing and Planning Committee in September 2023.¹⁸ There is a risk associated for non-VAT registered businesses who might find that the addition of the Levy will tipped them over the VAT registration threshold.

Unfortunately, the BRIA outlined that due to VAT remaining a reserved matter, no costs on the impact of VAT have been provided.

Also, only two businesses who indicated annual turnovers of less than £85,000 were consulted as part of the BRIA, which brings into question the accuracy of the cost estimates for micro and small businesses.¹⁹ As part of the New Deal for Business Group, FSB has recommended the introduction of a standalone Small Business Impact Assessment, as is already employed by administrations in England and Northern Ireland. This would ensure that, when introducing legislation that directly impacts small businesses, the potential impact on them is appropriately considered throughout impact assessment.

¹⁸ <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-local-government-housing-and-planning/correspondence/2023/visitor-levy-scotland-bill-1-september-2023>

¹⁹ <https://www.gov.scot/binaries/content/documents/govscot/publications/impact-assessment/2023/05/visitor-levy-bill-business-regulatory-impact-assessment/documents/visitor-levy-scotland-bill-business-regulatory-impact-assessment-bria/visitor-levy-scotland-bill-business-regulatory-impact-assessment-bria/govscot%3Adocument/visitor-levy-scotland-bill-business-regulatory-impact-assessment-bria.pdf>

The BRIA recognises that “there is potential that some smaller accommodation providers (particularly in the self-catering sector and providers offering accommodation through collaborative sharing platforms) could exit the sector if administration and compliance costs associated with the levy are perceived as significant.” Scotland lost almost 20,000 small businesses during a single year of the Covid crisis, therefore we cannot afford to lose further significant numbers of small businesses from the economy.²⁰ As outlined throughout our response, small businesses must be supported in implementing this levy to prevent any adverse negative effects on the business community and economy as a whole.

The Financial Memorandum outlines that there will be initial set-up costs or ongoing administration costs for accommodation providers, and that these will vary according to the size of enterprises. Our survey showed that over three fifths of businesses who reported a decreased turnover in the last year attributed this to either the cost-of-living crisis or overall economic uncertainty.²¹ Given the seismic shift in the conditions in which Scotland’s smallest traders have found themselves operating, it is vital that any new schemes like the Visitor Levy do not create additional financial burdens. As the Scottish Government is committed to its introduction, it is imperative that this scheme is deliverable effectively from the onset and works for all involved, including small businesses.

Further Information

For further information please contact Rachel Cook, Deputy Head of Policy FSB Scotland
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²⁰ <https://www.fsb.org.uk/resources-page/20-000-scottish-businesses-vanished-during-year-of-crisis.html#:~:text=Andrew%20McRae%2C%20FSB's%20Scotland%20policy,individuals%20and%20new%2Dstart%20businesses.>

²¹ <https://www.fsb.org.uk/resources-page/big-small-business-survey.html>