

## **BAA PRESS RELEASE - 23<sup>rd</sup> September 2013**

### **Time for Government to scrap the Aggregates Levy**

1. As predicted by the BAA, the Aggregates Levy has fallen foul of European State aid law due to the fact that a number of exemption granted to products such as clay, slate and shale cannot be justified by the nature and scheme of the Levy. The EU has now opened a Phase 2 investigation to formally decide whether or not a long list of exemptions constitute illegal State aid. Under EU law any exemptions under investigation must be suspended for the duration. Phase 2 investigations are supposed to be completed within 18 months but are presently taking up to four years.
2. The opening of a Phase 2 investigation left the UK government with two options; they could either scrap the levy altogether or suspend the exemptions. Unfortunately, HMG would appear to have chosen to extend a hopelessly flawed and unaffordable Levy in an effort to appease the EU rather than admit that it is beyond repair.
3. At the time of writing, guidance on timing for exemptions to be ceased has yet to be issued by HMRC. All they have said is that the matter is presently being considered but that it may involve primary legislation. This delay leaves the companies with exemptions in an extremely precarious position.
4. Companies who have exemptions for clay, slate and shale will be expected to begin paying the £2.00 Levy with little or no lead in time. In addition, if their exemption is proved to have been State aid during the EU Phase 2 investigation, they will be liable to repay the full amount plus compound interest going back to 2002
5. Northern Ireland quarries whose derogation has already fallen foul of a State aid investigation also face a massive liability going back to when the 80% derogation began. The implementation of the Levy was delayed in NI and, as the law stands, this could also be added to their final account
6. The BAA has called on the Government to suspend the Levy altogether as an alternative to causing further damage to an already hard pressed sector.

7. However, it would appear that HMRC is determined to actually extend the scope of the Levy, which has only ever had negative effects, in order to save face and avoid a possible claim from those who have been paying the Levy.
8. The AGL has distorted competition in the industry and done enormous damage since 2002. Although the alleged intention was to promote the environment, the Government has admitted that the AGL is inherently incapable of achieving its environmental objective of promoting the use of by-products in an even-handed manner (as set out in paragraph 25 of the Commission Decision). The solution that the Government now proposes is to remove the environmental component of the AGL and simply tax all extracted aggregate. Since it will effectively have to do this retroactively, it will inflict significant further damage on industry (albeit a different part of it).

Robert Durward,

"At long last the Aggregates Levy saga is reaching the climax of an eleven year legal battle by the BAA. However, given the nature of cash-strapped governments it is vital that the entire quarry industry and not just the BAA, now makes a public call for the Aggregates Levy to be scrapped forthwith before it is allowed to damage the clay, slate and shale sectors as well."

ENDS

**Contacts:**

BAA Executive Officer – Richard Bird

Tel./Fax: 01786 842483, Mobile: 07776 298347 [rbird@british-aggregates.com](mailto:rbird@british-aggregates.com)

BAA Secretary – Peter Huxtable

Tel./Fax: 01433 639879, Mobile: 07711 492378 [phuxtable@british-aggregates.com](mailto:phuxtable@british-aggregates.com)

BAA Director – Robert Durward 01555 663 444 [rdurward@british-aggregates.com](mailto:rdurward@british-aggregates.com)