

The Scottish Government's Public Health Levy on Large Food Retailers

Background

In early 2011 the Scottish Government's proposal for a large store levy was rejected in the Scottish Parliament. In its Autumn 2011 budget proposals the initiative re-emerged but fashioned differently as a 'public health levy', targeted at large retail stores (defined as a rateable value in excess of £300k) selling tobacco and alcohol. The intention is to use the money generated from the levy to tackle health problems associated with alcohol and tobacco. There is no expectation that it will reduce sales of alcohol or tobacco.

Since the initial budget announcement there have been various statements about the nature and purpose of the levy and much heated discussion, though no draft of the legislation has been published and the levy rate has not been announced (despite its supposedly April commencement). The levy was initially intended to raise £30 million in the first year rising to £40 million in subsequent years (£110million over three years) and was seen by many as a way to fill a budget hole.

A number of groups responded to the Government's initial announcement along lines that might be expected. Health based groups welcomed the prospect of "new" funding. Retail groups expressed scepticism that this was just a rebranding of the previously rejected levy in a possibly more palatable guise. Wider concern has been expressed over potential business discrimination, effects on jobs and investment and the message which taxation of this sort sends to business. There has been some criticism over the selection of part of the retail sector as the target, given that other parts of the retail sector, and other sectors of the Scottish economy are very much engaged with the selling and promotion of alcohol and tobacco. There has also been concern about the lack of a consultative process prior to the announcement and a refusal to carry out an impact assessment on the proposals.

As part of a campaign to stop the levy, Asda commissioned CEBR to investigate aspects of the proposals. They concluded:

"Retail is a low-margin industry, particularly for food retailers. Thus, although the Public Health Levy amounts to a relatively small share of retailer turnover, the levy is substantially higher as a share of business profits. For Scottish retail businesses, by 2014-15 the health levy will amount to 0.2% of Scottish retail turnover and 1.0% of Scottish retail profits. For Scottish non-specialised retailers predominantly selling food, alcohol or tobacco – such as supermarkets - the levy will amount to 0.4% of turnover and 7.0% of profits. For the estimated 240 stores liable for the levy, the levy will amount to 0.4% of turnover and 8.0%-10.0% of profits. The proposed health levy thus represents a substantial share of Scottish supermarket profits; this is likely to have a negative impact on the Scottish economy, deterring job creation and business investment in the retail sector."

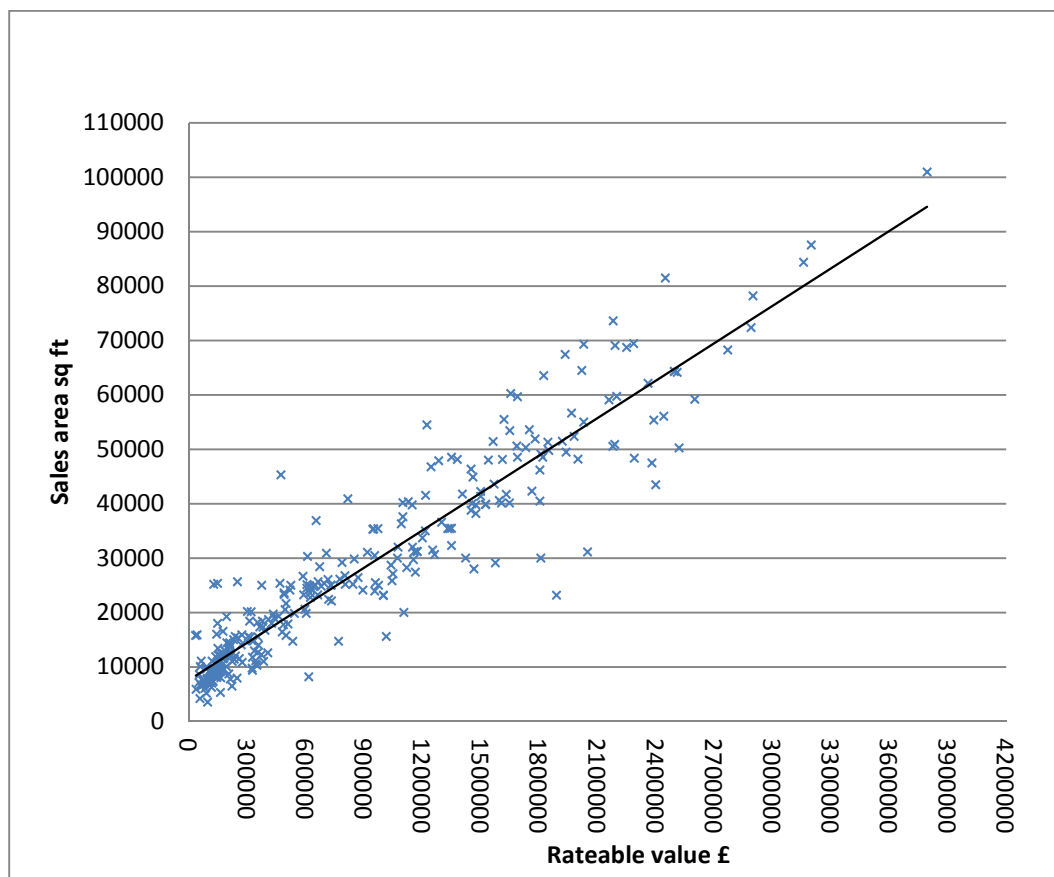
When the budget was passed on the 8th February 2012, the Government reacted to these various criticisms by reducing the take by £5m per annum (a supplemental rate of 9.3p was identified) and added a "sunset" clause to end the levy after three years.

Some Analysis of Impact

At the time of writing, there is little detail over how the levy would work, but some attempts to look at impact can be made. Data to undertake this are required on store floorspace and rateable value. Data for rateable values was taken from the Scottish Assessors database. This was cross-tabulated with data on store sales areas obtained from the Institute of Grocery Distribution

From this new dataset (see Figure 1) we identified 202 stores with rateable values of greater than £300,000 selling alcohol and registered to sell tobacco. Although it has been reported that only a small number of stores would be affected by the levy, this figure is c43% of all supermarkets and discount stores in the country, representing a substantial proportion of grocery sales in Scotland. There are a further 8 stores with a large sales area but for which rateable value data could not be identified. This number is lower than the 240 stores quoted by the Scottish Government (and noted above by CEBR). If all stores selling alcohol or registered to sell tobacco with a rateable value of £300,000 or more are included, then we reach the 240 total as well.

Figure 1 Sales Area and Rateable values for Retail Stores (selling alcohol and tobacco)



A number of points can be made:

- Sales area is a reasonable predictor of rateable values as would be expected and rateable values are therefore a proxy for sales area data, although not a perfect proxy. The increasing size of stores (and thus rateable values) in the grocery retail sector has arisen in part from the growth of non-food retail in grocery stores. Sales area is therefore not an adequately robust indicator of alcohol or tobacco sales. Given that a flat rate percentage is to be charged this will mean that large retailers will be paying a levy not just for the grocery sales area or even the alcohol and tobacco sales area but on their total sales area. Taking average rateable values per square foot (Table 1) Waitrose has the lowest rateable values per sq. ft. at £28.7 across all stores. This contrasts with Sainsbury at £36.4 per sq. ft. across all Scottish stores. Differences amongst retailers are even more pronounced for those stores affected by the levy.

| | Rateable value per sq ft sales area all stores | Rateable value per sq ft sales area - stores with a rateable value of £300,000 or more |
|-------------|--|--|
| Sainsbury's | £36.4 | £38.6 |
| Asda | £33.9 | £33.9 |
| Tesco | £31.2 | £33.7 |
| Morrisons | £34.0 | £25.6 |
| Waitrose | £28.7 | £28.7 |

- Figure 1 indicates that there are many stores selling alcohol and tobacco which fall below the £300,000 threshold. If the threshold was set at the level of the smallest sales area for a store with a rateable value of £300,000 (a sales area of 8,200 sq. ft.) a further 76 stores selling alcohol and tobacco would be subject to the levy, but this would catch some different retailers. A further 70 stores would be included if stores selling alcohol only were included, and many of these would be discount stores (but would then also include M&S). This suggests the target of the levy is supermarket operators rather than alcohol or tobacco sellers per se.
- We estimate that the proposed tax would affect all Asda and Waitrose stores in Scotland, some three quarters of Tesco stores (the company with the most stores in Scotland) but only 15% of Coop stores. Asda would be paying in the region of £7m, Tesco £8m, Sainsbury's £2.8m and Morrisons £5m. The average store levy will be over £140,000, which would be a deduction off profitability and might for some stores bring into question their ongoing viability.
- Setting the boundary at £300,000 suggests a broad minimum sales area of 14,500 sq. ft. as defining eligibility for the levy. However some smaller stores will be paying the levy as they have high rateable values and some larger stores will not; examples include smaller stores in towns like Cupar, Kinross and Oban which will be paying the levy and larger stores in locations such as East Kilbride, Johnstone and Alexandria which would not.
- Although there is a 'good fit' between rateable value and sales area there are also cases which do not fit the trend. Rateable values are a function of where a property is located and also the state of the fabric. Considering the category of stores between 40,000 and 55,000 square feet it is clear that there is a huge disparity in the rateable values, with a range from £474,000 to £2,520,000. The higher rateable values are associated with stores in more prestigious residential areas and the lower rateable values with those in less prestigious

areas or older stores. It could be argued that this in practice is inverse to the locations with the greatest problems with alcohol and tobacco. Similar patterns are likely at lower sales area levels.

- With proportionately high levies on particular stores, and the possibility that some of these stores might be marginal in terms of contribution in any case, there may be a review by retailers of which stores remain sustainable and/or the steps that might need to be taken to make them profitable again, if that is possible.
- There may also be an issue over other reactions that retailers may be able to make. Whilst the exact wording of any legislation may provide scope for lawyers to consider, there may be issues over whether stores can react by shifting sales area or registration and licences. It is potentially possible that tobacco sales for example could be moved to a separate rateable value location (petrol filling station) say, thus potentially removing a main store from the levy. For the Government this reduction in locations selling tobacco may be seen as a success, but the cost would be a hole in the levy take. It is likely that retailers will look to see what is possible in this and other regards.

Conclusions

The levy is seen by some as “levelling the playing field” (between large and small retailers, if not between Scotland and England) and by others as a tax grab to fill a budget hole. It is clearly subject to variations and idiosyncrasies of operation and may make retailers in some places question how they can continue to trade profitably without passing on the tax to Scottish consumers or by seeking to restore profitability by reducing costs, which in retail inevitably means looking at the numbers of jobs and the hours of work.

Many applaud the Scottish Government’s consistent willingness to tackle alcohol and tobacco health issues in Scotland, but this levy seems an odd way to build consensus and take effective action, singling out as it does one part of one sector of the trade in these products and not relating the levy to the level of activity in that trade.

The impact of the levy will unfold in many ways in the coming months and years.

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