



## BAA Press Release

10<sup>th</sup> May 2013

### Aggregates Levy Update

Following our victory in the EU General Court in March 2012 we approached the High Court in London to have the stay on our appeal lifted in order that our case could proceed to the next stage.

There followed a hearing in July 2012 whereby a date was set for a two day hearing in April 2013. The reason for the delay being that the EU was due to announce its decision on whether or not to open a Phase 2 investigation into the Levy.

Given the unequivocal judgment both of the ECJ and the General Court, the EU were now most unlikely to grant State Aid approval under the Phase 1 process. However, by opening a Phase 2 procedure they were de-facto conceding the presence of State Aid and this would give the English court a strong steer in the BAA's favour. We were told in July that the decision would be announced 'sometime in the Autumn' however nothing happened. After a few false alarms we were eventually informed that it would "not be before the end of May 2013" We then decided to use the April date for a directions hearing rather than attempt to hear the full case.

On 10th April the Court of Appeal gave us permission to proceed to a full hearing. Treasury argued strongly against this but failed and we were awarded our costs. A note of the proceedings is attached.

BAA will lodge its skeleton argument by 21 May, the Treasury will lodge theirs by 19 June and there will be a 3 day hearing before three Lord Justices in the Court of Appeal 7 - 10 October 2013.

### Robert Durward,

"Despite losing comprehensively in two EU Courts, the Treasury remain determined to hang on to this revenue stream for as long as possible regardless to any hardship being caused. A number of operators have already gone into liquidation but still they carry on."

A number of quarries are now withholding the levy as they consider it an unlawful tax. HMRC rejected conditional payments and payment into a joint bank account on condition that the money would be repaid to the operator if the levy was determined to be unlawful. These quarries have successfully resisted enforcement efforts so far and will continue to do so.

In addition to having the Levy scrapped, there is also a possibility that operators will be able to reclaim Levy paid if the BAA wins its appeal, due the Government's violation of the so-called "Standstill Obligation."

Ends:

Please call if you require further information.

Kind regards,

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