



Landfill tax: compliance work in relation to lower rate

Who is likely to be affected?

Landfill site operators that are responsible for accounting for landfill tax in England, Wales and Northern Ireland; and operators of mechanical treatment plants and other waste industry interests that send waste fines for landfill in these parts of the UK.

General description of the measure

The measure will introduce a new, objective testing regime to help landfill site operators to identify the landfill tax liability of waste fines disposed of at landfill sites in England, Wales and Northern Ireland. In order to qualify for the lower rate of tax, waste fines must not exceed a 10 per cent threshold under an established scientific test (known as the 'loss on ignition test' (LOI)) undertaken on samples of waste. There will be a 12 month transitional period where the threshold will be 15 per cent.

Policy objective

The measure will help landfill site operators to identify the tax liability of waste fines sent for disposal at their sites by making available an objective scientific test to test samples. By prescribing the detailed specifications for the testing regime, as requested by the waste management industry, the Government is seeking to ensure that waste going to landfill is consistently declared at the prescribed rate, reducing the scope for errors and deliberate mis-description.

Background to the measure

Landfill tax was introduced on 1 October 1996 in support of the UK's waste policy. Less polluting materials are subject to a lower rate of tax and all other taxable waste is subject to the standard rate. The tax currently applies to waste disposed of at permitted landfill sites across the UK but from April 2015 it will no longer apply in Scotland.

Landfill site operators are responsible for ensuring the correct tax liability of waste is identified and charged. They raised concerns that the lower rate of tax was not being applied equitably and requested greater certainty on which to base their liability decisions, particularly in relation to fines - the smaller fractions of waste produced by any waste treatment process that includes an element of mechanical treatment. At present, fines are not separately identified within landfill tax legislation although they can be lower-rated if they comprise solely qualifying materials listed in legislation or mainly such materials, save for a small amount of non-qualifying material.

The Government responded by setting up a government-industry working group to consider the issues and develop proposals. Budget 2014 announced that, to assist landfill operators to determine the landfill tax liability of fines produced from the processing of waste at mechanical treatment plants, the Government would introduce an objective testing regime for waste sent to landfill, by April 2015.

A formal consultation was carried out during the summer on the proposals for how the testing regime will operate, including processes for the testing of samples and record-keeping requirements. The proposals set out in the consultation paper have been refined through further discussion with the government-industry working group. At Autumn Statement 2014 the Government published a summary of the responses received and its response to the outcome of the consultation. Draft primary legislation is being published on 10 December 2014.

Detailed proposal

Operative date

This measure will apply to disposals to landfill made, or treated as made, on or after 1 April 2015.

Current law

Landfill tax primary legislation is contained in Finance Act (FA) 1996 – sections 39 to 71 and Schedule 5. Section 42(4) provides for material that is disposed of to landfill and is listed in a Treasury Order to be taxable at the lower rather than the standard rate of landfill tax. Such material is termed ‘qualifying material’ and is listed in the Landfill Tax (Qualifying Material) Order 2011 (the 2011 Order) in a number of groups. Section 63 of FA 1996 contains further provisions in relation to qualifying material, including that the Treasury Order may provide that material must not be treated as qualifying material unless prescribed conditions are met.

Proposed revisions

Legislation will be introduced in Finance Bill 2015 to add new provisions to section 63 of FA 1996 and amendments to Schedule 5. The new provisions will allow secondary legislation to specify the conditions that must be met for fines to qualify for the lower rate and provide for detailed specifications to be set out in a public notice published by HM Revenue & Customs (HMRC).

Secondary legislation to be laid before Parliament in spring 2015 will add a new Group to the 2011 Order covering fines from mechanical treatment plants and set out the conditions for these fines to be lower rated, including in relation to the:

- composition of fines to be disposed of;
- testing whether fines are qualifying material;
- level of the LOI threshold above which the lower rate will not apply;
- frequency with which fines must be tested;
- checks landfill site operators will need to undertake on those sending fines to their sites; and
- keeping of samples of material on which tests have been carried out.

Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	-	nil	nil	nil	nil	nil
	This measure is not expected to have an Exchequer impact.					
Economic impact	The measure is not expected to have any significant economic impacts.					
Impact on individuals, households and families	As landfill operators are responsible for arranging tests and paying landfill tax on waste to HMRC, this measure will not have a direct impact on individuals, households or families.					

<p>Equalities impacts</p>	<p>This measure concerns the taxation of businesses and there will be no direct impact on individuals. As such it is very unlikely that there will be any impact on equality.</p>
<p>Impact on business including civil society organisations</p>	<p>This measure will affect operators of mechanical treatment plants and other producers of fines as well as landfill operators upon whom the tax liability falls, and any other customers upon whom additional cost or changes in tax liability may be passed. There are currently around 200 registered landfill site operators and 450 mechanical treatment plants that produce fines in England, Wales and Northern Ireland.</p> <p>Since the test will apply at the point the waste is tipped to landfill the main additional administrative burdens will be on operators of landfill sites. One-off costs may include:</p> <ul style="list-style-type: none"> • time needed to familiarise themselves with the new rules; • IT system changes; • LOI sampling training for site staff; • identifying and setting up suitable storage facilities. <p>Continuing costs may include:</p> <ul style="list-style-type: none"> • the monetary fee of the LOI test charged by the laboratory; • sampling - the process for selecting a representative sample will be specified in legislation. Each test will require both the vehicle driver to remain with the load while it is tipped away from the tipping area in a safe environment and a landfill site operator to take the required sample; • sending samples to laboratories and ensuring that each can be attributed to the company that tipped the waste; • storing samples in case they need to be reviewed, including by HMRC; • maintaining a log of test results; • analysing test results; • reporting the results of failed tests to HMRC; • re-invoicing in cases where the original invoice has been based on the lower rate, and the waste subsequently fails the test; • additional credit control and site costs dealing with customer disputes tracking of failures and reporting costs. <p>The cost of an LOI test on a sample is roughly £10 and is carried out by testing laboratories, taking one to two weeks. The test rate minimum should be one in every thousand tonnes, plus possible additional tests for failed samples and small producers, total fees paid by business for the tests would likely be between £50,000 and £100,000. This is included in the continuing costs shown below.</p> <p>Checks and testing may already be carried out by some landfill operators, significantly reducing the additional costs for those operators.</p> <p>This measure is expected to have no impact on civil society organisations.</p>

		Cost	Time Period (years)
	Compliance Costs		
	One-off Costs	negligible	N/A
	Average Annual Costs	£0.2m	6
	Total Costs (PV)	£1.3m	N/A
	Compliance Benefits		
	One-off Benefit	N/A	N/A
	Average Annual Benefit	N/A	N/A
	Total Benefit (PV)	N/A	N/A
	Net Benefit (NPV)	-£1.3m	N/A
	Impact on Administrative Burden (included in Net Benefit)		
	Increase	Decrease	Net Impact
	£0.2m	£0	£0.2m
Operational impact (£m) (HMRC or other)	This measure will have minimal operational impact on HMRC.		
Other impacts	<u>Small and micro business assessment</u> : small and large businesses will face the same cost per test. Other impacts have been considered and none have been identified.		

Monitoring and evaluation

The measure will be monitored through regular meetings of the government-industry working group.

Further advice

If you have any questions about this change, please contact Phil Sears on 03000 585502 (email: phil.sears@hmrc.gsi.gov.uk).