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To landfill site operators registered for landfill tax

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## LANDFILL TAX BRIEFING - MARCH 2014

This briefing provides updates on:

- Landfill tax:
  - Rates
  - Consultation on testing regime
  - Update on the draft further guidance on lower rating
- The Landfill Communities Fund (LCF):
  - Maximum percentage credit for 2014-15
  - Unspent funds challenge
  - Payments made to ENTRUST by environmental bodies for 2014-15
- Devolution of landfill tax to Scotland from 1 April 2015:
  - Impact on UK landfill tax
  - Impact on the LCF, including transitional arrangements

### 1. Landfill tax

#### 1.1 Rates

The Government announced in today's Budget that legislation will be introduced in Finance Bill 2014 to increase the rates of landfill tax in line with inflation (based on RPI), rounded to the nearest 5 pence, for disposals of waste made, or treated as made, to landfill on or after 1 April 2015. Details of the two rates of tax can be found below.

In the June 2010 Budget, the Government announced a floor under the standard rate of landfill tax so that the rate will not fall below £80 per tonne from 2014-15 to 2019-20. Budget 2014 announced that the Government intends to provide further long-term certainty about the future level of landfill tax rates once

the consultation process on the testing regime (see paragraph 1.2) has concluded but, in the meantime, is committed to ensuring that the rates are not eroded in real terms.

### Standard rate

The standard rate is currently £72 per tonne as a result of a change in Finance Act 2012. On 1 April 2014 it will increase to £80 per tonne as a result of a change in Finance Act 2013.

As a result of the Budget 2014 announcement, the standard rate will increase to £82.60 per tonne on 1 April 2015.

### Lower rate

The lower rate of tax, which applies to less-polluting wastes listed in the Landfill Tax (Qualifying Material) Order 2011, is currently £2.50 per tonne, having increased from £2 per tonne on 1 April 2008.

As a result of the Budget 2014 announcement, the lower rate will increase to £2.60 per tonne on 1 April 2015.

## **1.2 Consultation on testing regime**

In autumn 2013, HMRC consulted on draft guidance that sought to clarify when the lower rate of landfill tax should apply. This consultation closed on 20 October 2013. Around 120 responses were received. In response to representations made, HMRC set up a government-industry working group with representatives from the Environmental Services Association (ESA), the United Resource Operators Consortium (UROC), the Environment Agency and HM Treasury to consider specific ESA proposals for an objective laboratory testing regime to supplement the guidance.

Following this industry engagement, the Government announced in today's Budget that it will introduce a loss on ignition testing regime covering the residual waste from waste processing at waste transfer stations ('fines') by April 2015. Only fines below a 10% threshold would be considered eligible for the lower rate.

Full proposals will be set out in a consultation document later in 2014. This document will be developed with the government-industry working group over the next couple of months.

## **1.3 Update on the draft further guidance on lower rating**

During discussions at the government-industry working group, it was agreed that the draft guidance circulated in September 2013 would not be published in final form until the working group discussions on the testing regime had concluded. A further meeting of the working group will be held before the end of May. In the meantime, the existing guidance remains extant.

## **2. The Landfill Communities Fund (LCF)**

### **2.1 Maximum percentage credit in 2014-15**

The Government announced in today's Budget a reduction of the potential value of the LCF in 2014-15 by £7.1m, to £71m, and intends to use the saving from the reduction to address waste crime. The percentage credit that landfill site operators may claim against their annual landfill tax liability for contributions made to bodies with objects concerned with the environment and enrolled under the LCF, will change to 5.1 per cent from 1 April 2014.

### **2.2 Unspent funds challenge**

At Budget 2011 and 2012 the Government issued a challenge to environmental bodies (EBs) to reduce their levels of unspent LCF funds by 25 per cent from the 2009-10 baseline by March 2013, with a corresponding increase in project expenditure, in recognition of the fact that such accumulated funds were not an efficient use of money. It also announced that progress on the challenge would continue to be reviewed annually and would inform future decisions on the fund's value.

At Budget 2013 the Government announced the challenge would be retained but the timeframe by which EBs are expected to reduce their unspent funds would be extended to 31 March 2014, in recognition of the time it has taken for EBs to deliver reductions to their unspent funds.

An assessment of progress against the challenge in 2013-14 can only be made once EBs submit their annual returns for that year, which will be in summer 2014. The Government intends that environmental bodies' performance against the challenge is published once the final information is available later this year.

### **2.3 Payments made to ENTRUST by environmental bodies for 2014-15**

EBs must pay a levy on the full contribution they receive from landfill site operators to the LCF regulator, ENTRUST, to fund its running costs. The EB levy, when agreed, will be published on ENTRUST website at: [www.entrust.org](http://www.entrust.org).

## **3. Devolution of landfill tax to Scotland from 1 April 2015**

### **3.1 Impact on UK landfill tax**

The Scotland Act 2012 provides for landfill tax to be devolved to Scotland. From 1 April 2015, operators of landfill sites in Scotland will no longer be liable to pay UK landfill tax for waste disposed of at their Scottish sites. Instead, they will be liable to register and account for Scottish Landfill Tax (SLfT).

Revenue Scotland, the new tax authority for Scotland's devolved taxes, will be responsible for SLfT. The Scottish Environment Protection Agency (SEPA) will support Revenue Scotland in the administration of the SLfT. Operators of landfill sites in Scotland will be required to register with Revenue Scotland in advance of April 2015.

From 1 April 2015, businesses with landfill sites located only in Scotland will need to apply to HMRC to deregister from UK landfill tax. Those that operate sites in both Scotland and elsewhere in the UK will have to notify HMRC of a change to their registration details.

Legislation will be introduced in the UK Parliament so that after 1 April 2015 landfill operators will only be entitled to claim credit for qualifying contributions if they are spent on an approved object in England, Wales or Northern Ireland. We will contact all registered operators later in 2014 with further details concerning the switch off of landfill tax in Scotland. In addition, operators of Scottish landfill sites can expect further direct communication from Revenue Scotland and SEPA on SLfT during 2014. For further information on SLfT please visit: [www.sepa.org.uk/waste/scottish\\_landfill\\_tax.aspx](http://www.sepa.org.uk/waste/scottish_landfill_tax.aspx)

### **3.2 Impact on the LCF, including transitional arrangements**

As a result of the devolution of landfill tax to Scotland from 1 April 2015, credit against landfill tax for contributions to the LCF will relate only to tax liable from landfill sites in England, Wales and Northern Ireland. Spending of these contributions by EBs will be limited to projects within these three nations.

The Government recognises that on 31 March 2015, EBs will hold unspent funds from contributions by landfill operators located throughout the UK. Therefore there will be a **2-year transitional** period, from 1 April 2015 until 31 March 2017, during which these unspent funds can be spent on projects located throughout the UK, including in Scotland.

An outline of how the transitional period will operate is given below. Further details will be published later in the year, along with draft legislation.

#### Project approval

- ENTRUST will continue to approve projects located in Scotland on the condition that they are scheduled for completion before 31 March 2017.

- ENTRUST will contact EBs that have a current project located in Scotland which they have already approved and which is not scheduled to finish until after 31 March 2017.

#### Qualifying contributions

- EBs must keep records identifying contributions deemed to be on hand at 31 March 2015. These contributions must be identified separately from any received after this date as the latter cannot be spent on projects in Scotland.

#### Position at 31 March 2017

- Legislation will be introduced in the UK Parliament so that any LCF spending after 31 March 2017 on projects located in Scotland will be deemed 'non-compliant' spend for LCF purposes.
- From 1 April 2017, EBs which normally fund only Scottish projects will no longer be able to spend any remaining LCF funds. EBs will **either** need to provide proof of commitment to spending their remaining unspent funds on projects in the rest of the UK **or** will need to transfer these remaining funds to an EB which funds projects in the rest of the UK. If an EB is unable to do so, HMRC will consider the clawback from the contributing landfill operator of any unspent funds.
- Landfill operators are currently required to keep records and accounts in order to ensure that their contributions to EBs are spent compliantly. These, together with EBs' records, will enable HMRC to identify any contributions to be clawed back.
- EBs (including Scottish EBs which fund 'rest of UK' projects) that have funds on hand at 31 March 2017 relating to contributions made up to and including 31 March 2015 will be able to continue to spend any remaining funds on projects in England, Wales or Northern Ireland.
- During the transitional period, EBs will continue to be able to transfer funds to other EBs relating to pre-1 April 2015 contributions.
- EBs funding only projects located in Scotland will no longer receive LCF contributions for periods after 31 March 2015 and will no longer be able to spend any LCF money on hand after 31 March 2017. They will therefore be encouraged to revoke their approval voluntarily unless they intend to start funding projects in England, Wales or Northern Ireland.

The Landfill Tax (Scotland) Act 2014 introduces a similar LCF type scheme to ensure communities in Scotland are still compensated for living close to landfill sites after the introduction of SLfT. SEPA will also regulate the new scheme in Scotland for projects funded by SLfT after 31 March 2015.

If you have any queries regarding the above, please contact me.

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