

To landfill site operators registered for UK landfill tax

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Our ref

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LANDFILL TAX BRIEFING - MARCH 2015

This briefing provides updates on:

- Landfill tax:
 - Rates
 - Loss on ignition (LOI) testing regime
- The Landfill Communities Fund (LCF):
 - Maximum percentage credit for 2015-16
 - LCF reform in England, Wales and Northern Ireland
 - Payments made to ENTRUST by environmental bodies for 2015-16
- Devolution of landfill tax to Scotland from 1 April 2015
 - Impact on UK landfill tax
 - Operators of landfill sites in Scotland only
 - Operators of landfill sites both in Scotland and elsewhere in the UK
 - Impact on the LCF, including transitional arrangements
- Devolution of landfill tax to Wales from April 2018

1. Landfill tax

1.1 Rates

The Government announced in the Budget that legislation will be introduced in Finance Bill 2015 to increase the rates of landfill tax in line with the Retail Prices Index (RPI), rounded to the nearest 5 pence, for disposals of waste made, or treated as made, to landfill in England, Wales and Northern Ireland on or after 1 April 2016. Details of the two rates of tax can be found below.

Information is available in large print, audio and Braille formats.
Text Relay service prefix number – 18001



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 clarified that the floor of £80 per tonne in the standard rate should be interpreted in real terms and announced that the lower rate will, in future, also increase each year in line with RPI.

Standard rate

The standard rate is currently £80 per tonne as a result of a change in Finance Act 2013. On 1 April 2015 it will increase in England, Wales and Northern Ireland to £82.60 per tonne as a result of a change in Finance Act 2014. Finance Bill 2015 will increase the rate to £84.40 per tonne for disposals made, or treated as made, in England, Wales and Northern Ireland on or after 1 April 2016.

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. It will increase to £2.60 per tonne in England, Wales and Northern Ireland from 1 April 2015 as a result of a change in Finance Act 2014. Finance Bill 2015 will increase the rate to £2.65 per tonne for disposals of waste made, or treated as made, in England, Wales and Northern Ireland on or after 1 April 2016.

1.2 Loss on Ignition (LOI) testing regime

The 'loss on ignition' (LOI) testing regime announced at Autumn Statement will be introduced in England, Wales and Northern Ireland from 1 April 2015, improving compliance by helping prevent mis-description of waste fines for landfill tax purposes. The test provides certainty on the tax liability of fines produced by any waste treatment process that includes an element of mechanical treatment.

Only qualifying fines with an LOI of 10 per cent or lower will be considered eligible for the lower rate, though there will be a 12 month transitional period where the threshold will be 15 per cent. Two statutory instruments and tertiary legislation in the form of guidance will set out the technical specifications for the test and testing regime.

Please note that after 1 April 2015, you must conduct the prescribed test on qualifying fines received from each waste processor disposing fines at your landfill site.

For existing customers, the first test must be undertaken within the period which the first 500 tonnes are delivered or by 1 May 2015, whichever point is reached first.

For new customers after 1 April 2015, the first test must be undertaken within the period during which the first 500 tonnes are delivered or within one month of their first load, whichever point is reached first.

Following consultation on the draft legislation and guidance there will be a number of minor amendments to the draft guidance that was published in February, which is still available to view via the following link:

<https://www.gov.uk/government/publications/draft-legislation-the-landfill-tax-amendment-regulations-2015-the-landfill-tax-qualifying-fines-order-2015-and-guidance>

These amendments arise from the consultation responses received on the draft guidance. Please see the attached annex for details.

The final guidance on the LOI regime will be incorporated into HMRC Public Notice (LFT1) and published on 1 April 2015 on the gov.uk website

2. The Landfill Communities Fund (LCF)

2.1 Maximum percentage credit in 2015-16

The Government announced in the Budget that the potential value of the LCF for 2015-16 will be £59.4m of claimable tax credit in England, Wales and Northern Ireland. The value of the LCF has been reduced by the devolution of landfill tax to Scotland from April 2015 and to fund a one-off increase in funding to tackle waste crime.

To achieve the above value, the percentage credit that landfill site operators in England, Wales and Northern Ireland may claim against their annual landfill tax liability for LCF contributions made to environmental bodies (EBs) will change from 5.1 per cent to 5.7 per cent from 1 April 2015.

2.2 LCF Reform in England, Wales and Northern Ireland

The LCF has provided £1.4 billion for community projects since 1996 but records show that EBs have accumulated large amounts of unspent money and that money is not reaching communities as quickly as it should.

The Government therefore challenged EBs to reduce the amount of unspent funds with a corresponding increase in project expenditure by 15 per cent by April 2012, which was extended to 25 per cent by April 2014.

On 8 September 2014 the Government announced that overall EBs did not meet the challenge to reduce their unspent funds, with such funds only being reduced by 17 per cent. This announcement detailed the Government's intention to consider options to reform the fund in England, Wales and Northern Ireland. Reform options were identified by a government-industry working group which met between November 2014 and January 2015.

Budget 2015 announced a consultation on LCF reform which is open for responses from 18 March to 10 June 2015. The consultation is available here: <https://www.gov.uk/government/consultations/reform-of-the-landfill-communities-fund>

2.3 Payments made to ENTRUST by environmental bodies for 2015-16

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 for 2015-16 is 2.32 per cent.

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).

Landfill operators with landfill sites in Scotland are required to notify Revenue Scotland of their intention to carry out taxable activities within 30 days of the earliest date after 15 February 2015 on which they form (or continue to have) the intention to carry out taxable activities in relation to SLfT. Information on how to register for SLfT is available on the Revenue Scotland website www.revenue.scot/.

3.2 Operators of landfill sites in Scotland only

If you operate landfill sites only in Scotland, HMRC will deregister you from UK landfill tax with effect from 31 March 2015. We have the information we require and you do not need to take any action to deregister. We will write to you to confirm your deregistration.

You may have already received a final return on which to account for UK landfill tax up until 31 March 2015 - if not you will receive one very soon. You will have one month, as usual, in which to submit the return and pay any tax due. You must account for tax on all disposals of waste to landfill up to and including the 31 March, even if you issue the invoice after that date.

You may claim a tax credit for contributions to an approved environmental body relating to the period up until 31 March 2015. In accordance with usual procedures, qualifying contributions must be made before the final return is submitted.

If you have approval from HMRC to operate any special schemes, such as an approval to designate an information area (now known as non-disposal areas in Scottish legislation), these only apply to UK landfill tax and cannot be used after 31 March 2015. If you wish to continue to use a special scheme then authorisation should be sought from Revenue Scotland when registering for SLfT, or thereafter.

3.3 Operators of landfill sites both in Scotland and elsewhere in the UK

If you operate landfill sites in Scotland and elsewhere in the UK, you must notify our CCU in Southend of your Scottish landfill sites using form LT1B so that these may be removed from your UK registration after 31 March 2015. We will write to you to confirm the changes. Form LT1B is available from here <https://www.gov.uk/government/publications/landfill-tax-register-changes-to-landfill-site-details-lt1b>

You must account for UK landfill tax on all disposals of waste to landfill in both Scotland and the rest of the UK up to and including the 31 March, even if you issue the invoice after that date. From 1 April 2015, you must account and pay for UK landfill tax on your sites in the rest of the UK in accordance with current procedures. You will only be able to claim an LCF credit for qualifying contributions if they are spent on an approved project in England, Wales or Northern Ireland.

If you have approval from HMRC to operate any special schemes, such approval to designate an information area (now known as non-disposal areas in Scottish legislation), these will no longer apply to your Scottish sites after 31 March 2015. You will have to apply to Revenue Scotland for approval of any special schemes permitted under SLfT when registering for SLfT, or thereafter.

3.4 Impact on the LCF, including transitional arrangements

From 1 April 2015, credit against UK landfill tax for contributions to authorised EBs may only be claimed where it relates to projects in England, Wales and Northern Ireland.

There will be a 2-year transitional period, from 1 April 2015 until 31 March 2017, during which unspent funds held by EBs on 31 March 2015 can be spent on projects located throughout the UK, including in Scotland.

More details will be available shortly from the ENTRUST website www.entrust.org.uk.

4. Devolution of landfill tax to Wales from April 2018

The Wales Act 2014 provides for landfill tax to be devolved to Wales. This is expected to take effect in April 2018. Further information will be provided on developments at a later date.

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

Helen Horton
Policy Advisor

Insert new paragraphs 4.2 and 4.3

4.2 What is the liability of fines that derive from waste processors that accept mixed waste inputs?

It will depend on the exact nature of the inputs and the processes. Fines are an output of the mechanical treatment process. For lower rating, you must hold evidence that the fines meet the requirements and conditions set out in paragraphs 4.1 and 4.4. This does not automatically mean that the inputs to the mechanical treatment process must meet these requirements. The pre-acceptance checks set out in paragraph 4.5.1 will help you to determine whether the outputs are qualifying fines.

Examples:

- A waste processor accepts mixed commercial and construction and demolition waste. Its processes clearly show that non-qualifying material is being separated to leave fines that consist predominantly of qualifying material. These fines may be qualifying fines.
- A waste processor shreds mixed municipal waste. This shredded waste is not qualifying fines at this stage of processing.

4.3 What is deliberate or artificial blending or mixing of material?

As explained in paragraph 4.1, qualifying fines must not result from any deliberate or artificial blending or mixing of any material prior to disposal at a landfill site. For lower rating, different input and/or output materials must not have been of blended or mixed. However, as explained in paragraph 4.2, if a waste processor accepts mixed waste inputs, this does not automatically mean that the outputs will not be qualifying fines.

Examples:

- A waste processor operates two separate processing lines: one for mixed commercial waste; and another for construction and demolition waste. The process from the commercial line produces mixed waste fine. These are not qualifying fines and are liable to the standard rate of landfill tax unless the process can clearly demonstrate that qualifying material can be separated effectively to meet all the requirements and conditions set out in paragraph 4.1 and 4.4. The process for the construction and demolition line clearly shows that non-qualifying material is being separated to leave fines that consist predominantly of qualifying material. The fines produced from both lines are stored in separate bays.