

Revenue Scotland SLfT guidance on waste fines.

Consultation Response Form

Please complete this form and email to the address below no later than 29 July 2016.

slft@revenue.scot

If you wish to submit your response in PDF format please also provide a version in Word. This will help us with collating and analysing all responses.

Alternatively, you can request a hard copy of this form by writing to us at the address below or phoning 03000 200 310. Hard copy responses should be sent to:

SLfT Guidance Consultation
Revenue Scotland
PO Box 24068
Victoria Quay
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1. Name/Organisation

Organisation Name (Leave blank if responding as an individual)

Avondale Environmental Ltd

Main business activities of organisation

Landfill

Title Mr Ms Mrs Miss Dr other

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3. Permissions - I am responding as...

Individual / Group/Organisation

Please tick

(a) Do you agree to your response being made available to the public (on the Revenue Scotland website)?

Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

Yes, make my response available, but not my name and address

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (on the Revenue Scotland website).

Are you content for your **response** to be made available?

Yes No

(d) Are you content for Revenue Scotland to contact you again in relation to this or any similar consultation exercises?

Yes No

4. Revenue Scotland tries to operate to Adam Smith's principle of certainty for the tax payer about their tax liability. How easy will it be to be sure of the tax due on each load of waste fines disposed of to landfill under the new guidance?

Not easy – this proposal puts an onerous burden upon the landfill operator involving a process that is open to interpretation at several points along the way. Landfill operators are highly unlikely to be suitably competent to assess waste producers processes that create waste fines and should not, therefore, be the final and sole arbiter in approving lower rates of tax(or not) on behalf of Revenue Scotland and the Waste Producer. In Fact is it not a legal requirement of current waste law that a Waste Producer Must, classify their own waste?

Furthermore, for initial approval the fines (waste) producer will be sampling and analysing their fines in the absence of the landfill operator, who then it appears has to accept at face value these results and information then after visiting this producers premises give a technical judgement of whether this process is capable of creating a waste stream that is Lower Rate Tax.

How can the landfill operator be certain of the sample being representative and analysed properly and that the process and associated equipment in this scenario is fit for purpose and guaranteed accurate 365 days a year?

Surely there should be a pre-production validation process by the relevant authorities *(Revenue Scotland/Sepa) in the fashion say, of Water Discount Application.

5. Part 8 of the guidance on Lol test methodology includes instruction to use a sample size of 5g. This sample size has been chosen because a larger one could risk incomplete combustion and therefore affect the Lol result.

Do you agree that specifying a sample size of 5g will lead to fair and consistent Lol test results?

No comment – being a landfill operator Avondale Environmental Ltd do not feel competent to pass judgement on this as we are neither a fines producer(that is likely to be lower rate of tax) nor a laboratory.

6. The frequency of testing table at part 12 of the guidance explains how certain indicators should be used to determine how frequently Lol tests should be carried out on waste fine streams.

Do you agree that the table supports a fair and consistent approach to the classification of waste?

No – as referred to in item 4, this puts an unfair and overly onerous requirement upon the landfill operator to carry out regulation on the regulator’s behalf for no apparent benefit. It should be the regulator’s (Revenue Scotland / SEPA) to confirm if a waste producer has the ability to create lower rate tax then the accepting landfill can judge on information provided by the waste producer. The costs of ensuring a waste is within the legal boundaries of acceptance should fall on the producer not the receiving facility. Check and balance (condition monitoring) is part of the fabric with PPC permitted landfills and there should be no distinction with this one particular waste stream.

7. Do you have any other comments you would like to make about this guidance?

Yes No

If you ticked ‘yes’, please provide your comments or suggestions:

Given the importance that is being apportioned to the tax liabilities of waste fines, the regulator should be taking more responsibility to approve qualifying fines for the lower rate of tax as opposed to diverting responsibility to the landfill operator.

Similar to the water discount application process, it would be much easier to administer and regulate for all if waste fines producers applied to Revenue Scotland with the supporting information for certification proving that their waste fines are eligible for the lower rate of tax. This initial approval process would ease a lot of the burden from landfill operators expected to assess processes that they are not necessarily familiar with.

In short, waste fines producers should have to apply to Revenue Scotland (or SEPA) for a lower rate of tax certificate for their respective waste fines. This can then be presented to the landfill operator to confirm that the waste fines are eligible for the lower rate of tax, thus removing the interpretive nature of the current proposed requirements of landfill operators.

Landfill operators would still need to monitor the waste fines being disposed of at their landfill, but this would be to confirm that the waste composition (e.g. LOI results)

resemble that which would be on the lower rate tax certificate issued by the regulator.