

## 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](mailto: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  
EDINBURGH EH6 9BR

#### 1. Name/Organisation

**Organisation Name (Leave blank if responding as an individual)**

Levenseat Ltd

**Main business activities of organisation**

Waste Recycling, Treatment & Disposal.

**Title** Mr  Ms  Mrs  Miss  Dr  other

**Surname**

Hamilton

**Forename**

Angus

#### 2. Postal Address

Levenseat Waste Management Site

By Forth

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Email angus.hamilton@levenseat.co.uk

**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?

If the guidance is applied in a consistent and transparent manner then it should follow Adam Smith's principle, however as highlighted below there are elements which are wholly based on qualitative assessment rather than on a quantitative basis. The potential for inconsistent application of the guidance and processes presents the biggest risk to this principle.

There requires to be greater clarity over which processes can and cannot produce qualifying fines, whilst guidance is given in section 1.2 the wording of the 3 bullet points has already been subjected to different interpretations by individuals and therefore could give rise to give very inconsistent outcomes under the same set of circumstances.

There needs to be very concise parameters to define what is artificial blending, what processes are considered as satisfactory treatment and what is non-qualifying material that could be reasonably removed. Alternatively this aspect of the guidance should be dropped and the Qualifying Material Order and 10% threshold used as the sole determinants for the taxable rate applied.

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?

For the testing process to achieve its aims it is vitally important that the sample tested is representative of the source material and results obtained are consistent and reliable.

Whilst we recognise that the 5g sample is derived from a larger composite sample obtained following the methodology in the guidance document, there is still potential for such a small sample producing inconsistent results. For example the presence of a 0.5 gram flake of plastic which is difficult to grind into a homogeneous sample could influence the result by a factor of 10% therefore resulting in a fail. Conversely if the 5g

sample happened to miss such material, an out batch of fines could pass the LOI test.

We understand that most laboratories operate at the 20g sample weight and consider this to provide the most consistent results without concerns over incomplete combustion. The protocols followed by accredited laboratories minimise any potential that this may occur.

On balance the inconsistency of a 5g sample size is of a greater concern than the unlikely scenario of incomplete combustion.

6. The frequency of testing table at part 12 of the guidance explains how certain indicators should be used to determine how frequently LOI 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?

Whilst the table indicates a good risk based approach to testing frequency there remains a degree of interpretation required which will result in inconsistency. There is no clear definition or criteria in the pre-acceptance checks as to what constitutes “producing qualifying fines with some variability” or “producing qualifying fines inconsistently”.

In the scenario where a landfill operator carries out the pre-acceptance checks and defines the fines as Medium Risk with associated testing regime, there is potential tax liability if at a later date Revenue Scotland reviewed the data and concluded that in their view it should be defined as High Risk?

This could lead to a case where a landfill operator is deemed liable for a significant sum of tax based on the different qualitative interpretations of individuals.

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:

The current draft guidance puts significant onus on the Landfill operator to carry out pre-inspection checks which require a degree of knowledge regarding suitable processes and methodology.

This has 3 significant implications:

- Firstly it requires additional specialist resource in order to visit customers and inspect the process in order to complete the questionnaire;
- Secondly there is information required to complete the pre-acceptance questionnaire which the waste producer is likely to consider commercially sensitive and reticent to fully disclose;
- Thirdly as highlighted in question 6 this approach exposes the landfill operator to tax liability resulting from different interpretations of the same information.

In order to address these issues we would strongly suggest Revenue Scotland adopt a similar approach to that which currently exists for Water Discounting whereby a producer who wishes to dispose of fines at lower rate under this guidance applies to and is initially assessed by SEPA / Revenue Scotland, who would then issue an approval and set the appropriate initial risk category for the testing regime.

This would ensure a consistent approach was applied throughout the industry and would be a disincentive to false declarations.

The approach above would have the advantage of providing a clear database of all registered fines producers allowing SEPA to potentially monitor the destination of these fines furthermore deterring the use of illegal disposal routes. If a known fines producer was not registered then SEPA could ask for suitable evidence of compliant disposal under Duty of Care.

Clarity is also required as to which EWC codes will be considered acceptable under the lower rate classification, particularly with respect to the requirement for WM3 classification.