



## Revenue Scotland guidance on how to determine the rate of Scottish Landfill Tax chargeable on contaminated soils.

### Consultation Response Form

Please complete this form and email to the address below no later than 15 July 2015.

[info@revenue.scot](mailto:info@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 0300 0200 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)

Scottish Environmental Services Association

##### Main business activities of organisation

Waste management trade association

Title Mr  Ms  Mrs  Miss  Dr  other

Surname

Freeland

Forename

Stephen

## 2. Postal Address

SESA		
ECCI, High School Yards		
Infirmary Street		
Edinburgh		
<b>Postcode</b> EH1 1LZ	<b>Phone</b> 0131 651 4680	<b>Email</b> s-freeland@esauk.org

## 3. Permissions - I am responding as...

<input type="checkbox"/> Individual	/	<input checked="" type="checkbox"/> Group/Organisation
<i>Please tick</i>		

(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 seeks to operate to Adam Smith's principle of certainty for the taxpayer about their tax liability. Compared to the current guidance, how easy will it be to be sure of the tax due on each load of soil disposed of to landfill under:

(a) Option 1 (Current guidance plus WM2)

While WM2 would undoubtedly help clarify whether a material is hazardous or non-hazardous, it should be noted that the test was designed to meet relevant objectives of the environmental regulatory regime and not for determining landfill tax status. We are not aware of any distinction within the relevant Acts between hazardous and non-hazardous wastes for the purposes of determining landfill tax rates (the Acts only refer to qualifying and non-qualifying material).

Revenue Scotland's position - that all hazardous waste should attract the standard rate of tax – had not explicitly been stated until the recent publication of SLfT 2006. Revenue Scotland should be aware that this position could have significant implications (particularly for brownfield site development) which we suggest would merit more detailed consideration.

If such a change is intended it should arguably be dealt with by a change in legislation and accompanied by a full regulatory impact assessment.

Notwithstanding our comments above, and as a means of demonstrating hazardousness, of the two options presented in the consultation we see more merit in option 1. This approach would minimise cost and administrative burdens on operators and would more likely be applied consistently. And of course, WM2 is specifically designed to determine the hazardousness of waste.

(b) Option 2 (Current guidance plus WM2 plus Inert WAC)

Option 1 is our preferred option.

5. Compared to the current guidance, how would the volume and type of material being disposed of to landfill change under:

(a) Option 1 (Current guidance + WM2)

Under option 1, we expect a greater volume of better quality soils to be available for beneficial use on landfills than under option 2.

(b) Option 2 (Current guidance + WM2 + Inert WAC)

Comments

6. How would each option impact on you administratively and in terms of your day to day operations? Do you see any advantages or disadvantages from either of the options? If so, please explain these.

(a) Option 1 (Current guidance plus WM2)

In the interests of maintaining a simple and proportionate tax regime, option 1 would clearly place less administrative and cost burdens on operators. While option 1 may have the advantage of being a less onerous testing regime it nonetheless provides an effective and definitive measure of the hazardousness of soils.

(b) Option 2 (Current guidance + WM2 + Inert WAC)

Comments

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

Yes  No

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

The assertion that there are currently no hazardous materials listed in the qualifying materials order is incorrect. There are materials listed (eg soils and ash) which are 'mirror entries' (under waste legislation) and could potentially be classified as hazardous waste following an assessment (ie WM2) of their properties.

We also suggest that there is scope to further consider appropriate 'trigger levels' at which point contamination of small amounts of hazardous material within an otherwise load of qualifying material would render the entire load at the standard rate of tax. The limitations of WM2 for landfill tax purposes has been previously noted, and may not help clarify the 'incidental contamination' issue for all loads of contaminated soils.

Revenue Scotland should be aware that a blanket provision that classifies all contaminated soils as hazardous and should therefore incur the standard rate of tax could have potentially significant implications on the commercial viability of brownfield site developments – and we suggest that this matter merits further and more detailed consideration.