



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

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)

Wm Tracey Ltd

Main business activities of organisation

Resource Management

Title Mr Ms Mrs Miss Dr other

Surname

Brown

Forename

Andrew

2. Postal Address

Dunniflats Depot		
Lugton		
Ayrshire		
Postcode KA3 4EA	Phone	Email

3. Permissions - I am responding as...

<input type="checkbox"/> Individual	/	Group/Organisation	<input type="checkbox"/>
<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)

Comments

Option 1 would give better clarity of tax due than the current system.

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

Comments

Option 2 would give better clarity of tax due than the current system.

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)

Comments

Option 1 will result in an increase in the volume of soils disposed of to landfill.

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

Comments

Option 2 will result in a lower volume of soil that fails inert WAC going to landfill and there will be no change in volumes of material which passes WAC going to landfill.

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)

Comments

Option 1 will result in a lower administrative burden as there will be less financial benefit to sourcing recycling / recovery options for soils as the landfill costs will be low. This option has the disadvantage of encouraging disposal of a valuable resource and discouraging development of the soil treatment / recovery industry in Scotland. Using option 1 will encourage landfilling of contaminated soils as this will be more cost effective than treatment for reuse. This goes against the principles of the waste hierarchy as set out in section 34 of the Environmental Protection Act 1990.

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

Comments

Option 2 will result in no change to the current administrative burden. The vast majority of contaminated soils are currently assessed against both WM2 and WAC to determine the most appropriate recycling / disposal option. This option will result in a higher cost to landfill contaminated soils and therefore encourage the treatment of those soils. High landfill costs will result in investment in alternative technologies and ultimately the recovery / recycling of contaminated soils.

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

Yes X No

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

Comments

Option 1 contradicts the criteria used when setting the list of qualifying material in several aspects. The criteria, presented in Appendix 1 of the consultation paper, states that all wastes suitable for the qualification of low landfill tax must have a '*low polluting potential in the landfill environment*' with the criteria defining wastes of this nature as those '*where contaminants are unlikely to become mobile in the landfill and any leachate produced has little or no pollution potential*'. This statement therefore suggests that material qualifying for low landfill tax must have an inert classification as it mirrors the legal definition of inert waste set out in the Article 2e of the Landfill Directive, 1999. The Landfill Directive states that the total leachability and pollutant content of inert waste in addition to the ecotoxicity of the produced leachate must be insignificant. If option 1 is successful and WM3 becomes the fundamental objective test for determining rate of landfill tax, the question of how this characteristic is assessed must be raised.

The criteria also states that the engineering and aftercare requirements for landfills of qualifying material are lower than those of non hazardous waste. This statement furthers the contradiction if option 1 is successful, as option 1 is restricted to the classification of non hazardous and hazardous waste and fails to provide an indication of the '*polluting potential*' of non hazardous waste.

Option 1 further contradicts the criteria used when setting the list of qualifying materials as it will encourage disposal of soil rather than treatment. The criteria states that materials qualifying for low landfill tax should be those that have '*no practical alternative waste management option*'. The implementation of option 1 as an alternative to option 2, will almost certainly result in little/no consideration of potential treatment options and thus consequently led to a greater volume of treatable soils being disposed of in landfill. In addition to contradicting the criteria, option 1 opposes the principles of the waste hierarchy as set out in section 34 of the Environmental Protection Act 1990.

In addition to the contradictions raised above, the use of WM3 as the fundamental objective test for determining rate of landfill tax could also arguably encourage waste tourism. Landfill tax regulations in Scotland and England are not aligned, with the HMRC Brief 18/12 suggesting that contaminated soils should be of higher tax. If option 1 is applied and all non hazardous soils qualify for low landfill tax in Scotland, with the HMRC failing to enforce similar taxations in England, non hazardous soils from England may subsequently be disposed of in Scotland for a lower tax rate.

