



"Working for our members to be the voice of government on waste minimisation and recycling issues"

LOCAL AUTHORITY RECYCLING
ADVISORY COMMITTEE

Mark Haynes (sent by e-mail to: landfill-tax.consultation@hmrc.gsi.gov.uk)
HM Revenue & Customs
Ralli Quays
3 Stanley Street
Salford
M60 9LA

24 July 2009

Dear Mr Haynes

Consultation Response – Modernisation of landfill tax legislation

I am writing to present the LARAC response to the Modernisation of landfill tax legislation Consultation, which is contained below, and I thank you for the opportunity to respond to the above consultation.

The comments below are sent on behalf of the Local Authority Recycling Advisory Committee (LARAC). LARAC is an association of just under 400 local authorities (397 as of April 2009 following the latest round of Local Government Reorganisation) across England, Scotland, Wales and Northern Ireland whose waste management and recycling professionals' co-ordinate and operate waste management services. Membership is drawn from all types of authority including statutory Waste Collection (WCA), Waste Disposal (WDA) and Unitary.

In response, overall LARAC have significant concerns that the consultation document does not satisfactorily address the environmental and financial implications of the proposals to change the eligibility of bottom ash from municipal waste incinerators/energy from waste facilities from the existing lower rated tax to the standard rate tax.

The concerns are largely associated with the uncertainty over the ability of the markets to respond and recover incinerator bottom ash as a secondary aggregate. In summary the position of LARAC is that the Impact Assessment which forms Annex B of the consultation should be subject to a more comprehensive review between HM Treasury, Defra and the Local Government Association (LGA) waste networks.

Overleaf are our detailed comments as requested in the consultation.

If you have any queries on this response or would like to discuss the matter further then please contact me on (01785 27 6807) or (mark.parkinson@staffordshire.gov.uk).

Yours faithfully,

Mark Parkinson
LARAC Policy Team



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GREEN GLASS

Consultation Response – Modernisation of landfill tax legislation

Question 1 to 10 – What constitutes a taxable disposal

Response to Q1 to Q16

LARAC is aware that specific waste materials are recovered/reused for landfill management. For example, wood chippings may be used to construct temporary road surfaces to enable vehicle access onto landfill tipping areas. Another example may be where soils and/or secondary aggregates are used for daily cover on an active cell of a landfill to mitigate environmental nuisance (e.g. vermin, birds, dust, litter, odour, etc).

Taxing these materials may result in the replacement of useful recovered waste materials with virgin materials. However, in order not to divert material away from emerging markets for wood recycling and energy recovery from biomass, LARAC would support the development of standards for daily cover material, requiring to be met to avoid landfill tax.

LARAC is also aware of the use of other materials to provide engineering solutions in landfill construction. However, landfill operators may be better placed to respond to this specific aspect of the consultation proposals.

Question 17 to 21 – Lower rate – lead option

<p>Question 17 – (i) can you supply information on the extent to which the wastes listed in paragraph 3.8 are still produced in the UK? (ii) Do you agree that these wastes are currently lower rated and would become standard rated under the lead option?</p>

Response to Q17(i)

LARAC represents Local Authority Waste Collection and Disposal Authorities and its interests are related to municipal waste management from existing and planned 'energy-from-waste' (EfW) treatment infrastructure.

As such, LARAC is in a position to comment on the second and third items listed in paragraph 3.8, namely '*bottom ash and slag boiler dust*' and '*furnace slags including slag from waste incineration*', otherwise referred to as Group 5 (Ash) and Group 4 (Furnace Slags) respectively as Wastes listed the Landfill Tax (Qualifying material) Order 1996.

With reference to Appendix D of the consultation document, LARAC notes that on page 37 of the consultation document, a table contains an estimate of the amount of Group 4 (Furnace Slags) waste material arisings as 314,000 tonnes per annum (tpa).



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Assuming that bottom ash and fly ash comprise, say, 25% to 30% and 3% respectively of waste input to a municipal waste incinerator, the Environment Agency reported that 642,088 tonnes of bottom ash and 79,771 tonnes of fly ash (air pollution control residues) were produced in 2000 from 11 municipal waste incinerators, equivalent to 2.6 million tonnes per annum (pa) of waste treatment capacity (EA, 2002).

However, it is not clear from the consultation document whether HM Treasury and HM Revenue & Customs have considered the number of new infrastructure projects approved that are funded through the Private Finance Initiative (PFI). The government agencies that are charged with the responsibility for ensuring that the UK meets its obligations under the EU Landfill Directive (e.g. Defra in England), will be able to confirm that a further 25 (approximately) municipal waste incinerators are planned for construction resulting in an additional ~ 6.25 million tonnes of capacity with the associated bottom ash arisings of around ~ 1.5 million tonnes per annum.

Recommendation 1: LARAC suggest further research is undertaken to better understand the scale of the waste arisings from the municipal waste sector that may potentially be subjected to a change from a lower rate to standard rate of landfill tax.

Response to Q17(ii)

LARAC understands that from the Environment Agency report (2002, pg 17) that four municipal waste incinerators/EfW facilities in the UK provide bottom ash recycling facilities. LARAC understands that the current technique for recycling bottom ash requires a process of stabilisation, screening, metal extraction and grading. As a result, not all of the bottom ash is suitable for inclusion as a secondary aggregate, with performance ranging between 10% and up to 40% of the bottom ash currently not utilised for recycling and sent for landfill disposal.

Although every effort is made to recycle materials from incinerator bottom ash, it is possible that an element of this material will continue to be landfilled (and there continues to be a threat that it may have to be treated as hazardous waste). To increase the rate of landfill tax on this material would significantly increase costs for local authorities.

Given the experience of four bottom ash recycling facilities in the UK, LARAC do not agree that all of these wastes are currently lower rated. With reference to Annex E of the consultation document that provides details of the waste acceptance criteria for inert waste disposal to landfill; and with reference to the 'yet to emerge' Waste Protocols Project to recover bottom ash (from waste incineration) for use in secondary aggregates, LARAC do not agree that wastes that are currently lower rated would become standard rated under the lead option.



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Recommendation 2: LARAC suggests that further research is undertaken to establish the market conditions and feasibility of recovering bottom ash and the potential environmental and financial impact on the municipal waste sector.

Question 18 – are you aware of any other wastes which would cease to be lower rated under the proposal?

Response to Q18

No.

Question 19 – are you aware of any other wastes which would be brought into the lower rate of tax under the proposal?

Response to Q19

HMRC has failed to deal with the question of compost-like output (CLO) from Mechanical Biological Treatment (MBT) plants. This material has been through a lengthy degradation process and can be considered as inactive, and should, if landfilled, attract tax at the lower rate.

If HMRC is truly concerned with the environment they could have proposed that this material be classed as inactive thereby going some way to redressing the balance created by the other tax-raising proposals contained in the consultation, and encourage sustainable waste treatment solutions.

LARAC supports the development of standards whereby CLO can find beneficial uses other than landfilling (e.g. as daily cover – see Q1 to Q16 response). However, standards should also enable materials that has to be landfilled to be classified as 'inert'.

Question 20 – what would be the impact on particular industries of restricting the lower rate to wastes that are inert according to the EU Landfill Directive? Please quantify impacts or provide data to support arguments.

Response to Q20

Although England, Scotland, Wales and Northern Ireland have separate waste management strategies, the consistent theme requires member states to operate within a European framework to divert biodegradable waste from landfill, environmental protection and more sustainable use of resources.

The most recent regional and local authority municipal waste management strategies generally recognise that municipal waste incinerators/EfW facilities have a key role in delivering the ambitions of the national waste strategies.

Given the lack of information in the consultation document with regards to the scale of impact and ability of the secondary aggregate market to respond (please refer to the response given in Question 17 for more details), LARAC is currently unable to advise as to the impact on the municipal waste management sector, other than to state that the introduction of uncertainty in the market conditions adds risk to the development of infrastructure.

However, the implications are potentially significant and it suggested that the Impact Assessment in Section B of the consultation should explore the wide ranging scenarios that could occur. Taking the situation in England as an example:

- Defra is currently in an advanced phase of working with several waste disposal authorities to fund significant waste treatment infrastructure through the PFI scheme, many of which have reached, or near to reaching financial close.
- Under the proposals put forward in the consultation, should bottom ash not be able to be recovered as a secondary aggregate and/or subject to the standard rate of landfill tax, it is estimated that the financial impact will be in the order of around an additional £17 a tonne on the gate-fee of every tonne of waste inputted into a facility for treatment (See Table 1).

Table 1: IBA disposal costs assuming no recycling of IBA

			2009	2013	Cost Increase
A	Municipal Solid Waste (MSW) - input	(tonnes)	100	100	
B	Proportion of IBA produced through EfW	(%)	24	24	
C	IBA generated per 100 tonnes inputted into EfW	(tonnes)	24	24	
D	Landfill gatefee	(£/tonne)	14.00	14.00	
E	Landfill tax - inert rate	(£/tonne)	2.50	-	
F	Landfill tax - active waste rate	(£/tonne)	-	72.00	
G	Landfill cost per tonne of IBA	(£/tonne)	16.50	86.00	
H*	Average gatefee per tonne of MSW inputted into EfW	(£/tonne)	3.96	20.64	16.68

* $H = C * G / 100$

- This may trigger a costly review of the business case and planning permissions for new facilities. Such a review could be in the magnitude of £250,000 per project depending on the circumstances. In additional, local authorities may face significant claims from operators of the 11 existing EfW facilities.
- In some instances, the change in business case may require an increase in the scale of the facilities in order to close the affordability gap.

- Should a change in landfill tax legislation delay the construction of EfW capacity and result in more biodegradable waste being disposed of to landfill, LARAC suggests HM Treasury and Defra in particular give consideration to the balance of additional tax revenues generated against European fines for missing the LATS targets caused by a delay in constructing new EfW infrastructure.
- LARAC would also highlight the risk to local authority members having to contribute towards the costs (at £200 per tonne = £180 million per annum) of the UK not meeting its obligations under LATS, nor of the carbon and other environmental impacts of a delay in diverting waste from landfill.

Recommendation 3: LARAC suggests that the Impact Assessment in Annex B of the consultation attempts to better understand the implications to the municipal waste management sector. Is there evidence of consultation with other government departments as to how this interlinks with their strategic ambitions for environmental protection against dangerous climate change?

Question 21 – to what extent are alternative waste management solutions (other than landfill) available for wastes that would cease to be lower rated? What would be the costs associated with these solutions.

Response to Q21

With reference to the response provided to Question 17 and 20, the ability of the market for recovering bottom ash is not certain and the consultation would benefit from an analysis of this in its Impact Assessment in Annex B.

If the market is able to respond and recycle bottom ash, the financial implications are less severe as presented as Table 2.

Table 2: IBA disposal costs assuming 90% of IBA recycling is achievable

			2009	2013	Cost Increase
A	Municipal Solid Waste (MSW) - input	(tonnes)	100	100	
B	Proportion of IBA produced through EfW	(%)	24	24	
C	IBA generated per 100 tonnes inputted into EfW	(tonnes)	24	24	
D	IBA recycling gatefee	(£/tonne)	15	15	
E	Residual IBA following recycling @ 90% rate	(tonnes)	2.4	2.4	
F	Landfill gatefee	(£/tonne)	14.00	14.00	
G	Landfill tax - inert rate	(£/tonne)	2.50	-	
H	Landfill tax - active waste rate	(£/tonne)	-	72.00	
I	Landfill cost per tonne of IBA	(£/tonne)	16.50	86.00	
J*	Average gatefee per tonne of MSW inputted into EfW	(£/tonne)	4.00	5.66	1.67

* $J = ((C*D)/100) + ((E*I)/100)$



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LARAC has concerns about the market's ability to cope with the huge influx of ash from the coal energy sector, the lack of a coherent and established protocol for the recovery of incinerator bottom ash as a secondary aggregate, and the risk that a lack of competition may lead to inflated gate-fee costs.

Question 22 – Lower rating - alternative approach

Question 22 – what additional criteria for lower rating waste might be appropriate? Which wastes would be lower rated should these criteria be introduced and in what quantities? What tests might such waste be subjected to? What would be the environmental benefits?

Response to Q22

LARAC would support the development of standards that could be applied to waste materials, CLOs and incinerator bottom ash to determine their suitability as a product for daily cover and site engineering, or their inert nature, providing that the testing required were not sufficiently onerous and increase costs.

Question 23 – Lower rate transitional arrangements - lead option

Question 23 – what are your views on the option of delaying the restriction of the lower rate? Would there be any quantifiable benefit in delaying for longer than a year from implementation of the other changes?

Response to Q23

Given the uncertainty in the market for the recovery of bottom ash from EfW as a secondary aggregate, LARAC suggests that new capacity for bottom ash recovery schemes may take at best three to five years to gain planning permissions, construction of facilities, revise/enter into contracts, establish end markets etc.

Point 4: LARAC suggests that if HM Treasury brings forward the proposals set out in the consultation document that they should first consider how they can put in place mechanisms so as not to disadvantage Local Authorities with existing EfW facilities during such a period and prevent uncertainty in the development of new EfW capacity.

Question 24 to 26 – Lower rate transitional arrangements – alternative approach



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Question 24 – what are the benefits and disadvantages of a transitional rate?

Response to Q24

A transitional rate if judged appropriately could give the market the ability to better respond to an increased demand to produce and find end markets for secondary aggregates. If judged incorrectly, it could delay the development of key EfW infrastructure with the associated negative financial and environment impacts.

Question 25 – what should be the level of the transitional rate and how long should it be kept in place?

Response to Q25

With reference to the response given for Question 24, LARAC suggests this should form part of a revised Impact Assessment involving key industry stakeholders in the municipal waste management sector.

Question 26 – which wastes which are currently lower rated should be able to benefit from the transitional rate?

Response to Q26

LARAC considers bottom ash from municipal waste incinerators/EfW should be considered as part of a revised Impact Assessment.

Other wastes within Group 5 (Ash) should also be considered as part of the Impact Assessment, as it may identify benefits and risks to the municipal waste sector should coal or wood produced bottom ash be subjected to a transitional rate.

End.