

Modernising landfill tax legislation

April 2009



HM TREASURY



HM Revenue
& Customs

Modernising landfill tax legislation

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Contents

		Page
Chapter 1	Introduction	7
Chapter 2	What constitutes a taxable disposal	11
Chapter 3	Wastes that qualify for the lower rate of tax	19
Chapter 4	Conclusion	23
Annex A	The Government's Code of Practice on Consultation	27
Annex B	Impact Assessment	29
Annex C	European definition of waste	43
Annex D	Waste currently lower rated for landfill tax purposes	45
Annex E	Inert waste in European terms	47

Subject of this consultation	Modernisation of landfill tax legislation.
Scope of this consultation	This consultation considers the definitions of: a taxable disposal of waste at a landfill site; and wastes that qualify for the lower rate of tax. It is timely to review the legislation governing these aspects and the way in which it reflects environmental protection regulation and waste industry practice. These are areas where there has been significant change in recent years.
Impact Assessment	A consultation stage Impact Assessment is at Annex B.
Who should read this	Landfill site operators, other waste industry interests, commercial producers of waste, representative bodies and non-governmental organisations.
Duration	The closing date for responses is 24 July 2009.
Enquiries	Enquiries about the content of this document and scope of the exercise should be made to John Durkan, by telephone on 0161 827 0906 or by email to john.durkan@hmrc.gsi.gov.uk
How to respond	Responses should be sent either by email to: landfill-tax.consultation@hmrc.gsi.gov.uk or by post to: Mark Haynes, HM Revenue & Customs, Ralli Quays, 3 Stanley Street, Salford, M60 9LA
Additional ways to become involved	Please contact John Durkan (contact details above) if you would like to discuss your response.
After the consultation	Subject to the results of this consultation, the Government's broad intention is to legislate for changes at Finance Bill 2010 with the changes actually coming into effect some time after that.
Getting to this stage	This consultation document reflects joint analysis carried out by HM Treasury and HM Revenue & Customs. Other departments have been involved as appropriate.
Previous engagement	These issues have not been the subject of recent consultation.

The Consultation Process

How to respond

A summary of the questions in this consultation is included at chapter 5.

Responses should be sent either by email to:

landfill-tax.consultation@hmrc.gsi.gov.uk

or by post to:

Mark Haynes
HM Revenue & Customs
Ralli Quays
3 Stanley Street
Salford
M60 9LA

All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

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Confidentiality

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If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Treasury or HMRC.

HM Treasury and HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

The Government's Consultation Code of Practice

This consultation is being conducted in accordance with Government's Code of Practice on Consultation. A copy of the Code of Practice criteria and a contact for any comments on the consultation process can be found in Annex A.

Additional information

A consultation stage Impact Assessment is attached at Annex B. We welcome comments from stakeholders on the indicative costs and benefits of each lead option. A full Impact Assessment will be produced once the consultation has closed and stakeholder views have been collated.

1

Introduction

1.1 This consultation document addresses two key aspects of the legislation which underpins the administration of landfill tax. It is published jointly by HM Treasury and HMRC.

1.2 This chapter begins with an explanation of the tax, looks at the drivers for change and, in the light of these drivers, sets out the objectives of the consultation in more detail.

Landfill tax

1.3 For well over a decade, landfill tax has had a central role in supporting waste policy. Introduced on 1 October 1996, it is payable by landfill site operators who may pass on the cost by way of increased charges to those disposing of waste at their sites.

1.4 Landfill sites are liable to be registered for the tax if they are permitted or licensed for waste disposal under specific environmental legislation concerning waste management.

1.5 There are two rates of tax:

- a standard rate (currently £40 per tonne) for active wastes such as household wastes which decay; and
- a lower rate (currently £2.50 per tonne) for inactive or inert wastes.

1.6 The tax reflects the significant impact that landfilling has on the environment – greenhouse gas emissions, risk of soil and water pollution through chemical leaching and general disamenity including noise, dust etc. By ensuring that waste producers incorporate the full cost of waste disposal into business decisions, landfill tax encourages the development of sustainable waste management options, including recycling and anaerobic digestion. Since 1997, the tax has contributed to a 32 per cent reduction in the proportion of waste sent to landfill and a similar increase in recycling. The tax already saves 0.7 million tonnes of carbon dioxide equivalent emissions a year.

1.7 The success of landfill tax demonstrates the effectiveness of the legislation and arrangements underpinning the tax. However, in line with best practice for continuous improvement, a review of the arrangements is now appropriate.

Drivers for change

Changes in environmental protection regulation since 1996

1.8 Since the introduction of landfill tax in 1996, the European regulatory context has changed significantly, notably:

- The EU Landfill Directive (1999/31/EC) has:
 - set stretching targets for the reduction of the landfilling of biodegradable municipal waste;
 - set requirements for the pre-treatment of waste prior to landfilling;

- banned the landfilling of certain wastes (notably liquid wastes and tyres);
 - introduced the obligation to classify landfills as either hazardous, non-hazardous or inert;
 - required that wastes must be sent to a landfill of the appropriate class with no co-disposal; and
 - tightly defined wastes which may, in certain circumstances, be considered to be inert.
- All but the smallest landfills have been brought within the controls introduced by the EU Integrated Pollution Prevention and Control (IPPC) Directive (96/61/EC).
 - The EU Council Decision on Waste Acceptance Criteria (WAC) in 2002 has set out the standards that waste must meet to be accepted at the three classes of landfill.
 - The European Waste Catalogue (EWC) introduced in 2002 has allocated to each waste a six digit code based on either the source that generated the waste or the type of waste.

1.9 In terms of the UK regulatory context, devolution has meant that waste regulation, including the implementation of relevant EU Directives, now rests with the Department for the Environment, Food and Rural Affairs (Defra), the Welsh Assembly Government, the Scottish Executive and the Northern Ireland Assembly. Other developments include:

- in England and Wales, the waste management licensing and pollution prevention and control systems have been replaced by environmental permitting;
- an amendment to the England and Wales Duty of Care legislation has required that waste is described on the transfer note by reference to the EWC and the appropriate code number; and
- Scotland and Northern Ireland have implemented a pollution prevention and control permitting system. This system also makes specific requirements as regards to landfill management.

Changes in waste management industry practice

1.10 There have also been many developments in operations at landfill sites. For example, technology has moved forward; there are now state of the art containment systems, new systems for landfill gas control and recovery, and new solutions for composting.

1.11 Furthermore, there have been structural changes in the industry and the ownership of many sites has changed. There are now approximately 300 businesses registered for landfill tax; between them they run fewer than 800 sites throughout the UK. This contrasts with the situation at the point that the tax was first established when there were around 1,000 businesses registered for the tax covering nearly 2,000 sites.

1.12 These are some of the drivers that have resulted in a situation in some parts of the UK where there are fewer and larger landfill sites. These may accommodate substantial facilities for sorting and recovering waste co-located with the actual area of tipping.

Impact of litigation

1.13 There has been a history of litigation about what constitutes a taxable disposal of waste at a landfill site, based on differing interpretations of the legislation. Most recently, in 2008, the Court of Appeal in *Commissioners for Her Majesty's Revenue and Customs v Waste Recycling*

Group Limited [2008] EWCA Civ 849, (the WRG case), ruled to the effect that material received on a landfill site which is put to a use on the site is not taxable.

1.14 Following the WRG case, HMRC have accepted that, across the UK, a significant amount of waste is outside the scope of landfill tax. At the same time, the Government believes that the policy rationale underlying the tax points to an imperative to tax much of this waste. Legislation in 2009 will, therefore, bring certain wastes back into the scope of the tax.¹

1.15 The litigation does not affect the meaning of the term “waste” for any purpose connected with environmental protection or waste regulation. Similarly, the options put forward in this consultation document relate only to taxation.

Objectives of this consultation

1.16 In the light of the changes described, the Government is seeking to modernise the following two key aspects of landfill tax:

- the definition of a taxable disposal of waste at a landfill site; and
- the definition of wastes that should qualify for the lower rate of tax.

1.17 These aspects are central to the tax. However, for the reasons explained above, they are based on environmental regulation and waste industry practice which, over more than a decade of the tax, have changed considerably. One result, by way of example, is that there is now an inconsistent use of terminology between landfill tax legislation and environmental protection regulation in terms of how waste is defined. This is part of the context of recent litigation as explained above. It is this litigation that has highlighted the importance of a review.

1.18 The options in this consultation document are aimed at ensuring the continued soundness of the administrative and legislative arrangements on which the tax is based. This will ensure that the tax is robust and well placed to continue to make an important contribution to achieving environmental policy objectives.

1.19 The options have been identified through a process of consideration across Government. They are described as either lead options or alternative approaches. However, the Government is open to comments in response to this consultation that challenge the options and would also welcome consultation responses that identify options not so far identified.

1.20 The Government’s broad intention, subject to comments received, is to legislate for any changes arising from consultation at Finance Bill 2010, with the changes coming into effect some time after that.

¹ See paragraph 2.3.

2

What constitutes a taxable disposal

2.1 This chapter looks at how the legislation currently defines what constitutes a taxable disposal of waste at a landfill site. It then goes on to set out the options for change.

Current situation

2.2 As the legislation stands, a taxable disposal of waste at a landfill site is defined primarily by reference to:

- the place of disposal – this is the landfill site, which may include areas within a wide curtilage including those used for sorting or recycling; and
- a definition of the disposal of waste based on the intentions of the person discarding the material.

How the legislation defines what constitutes a taxable disposal of waste at a landfill site

Landfill tax applies to all waste:

- disposed of by way of landfill; and
- at a landfill site registrable for tax.

Material is disposed of as waste if the person making the disposal does so with the intention of discarding it.

There is a disposal by way of landfill if material is deposited:

- on the surface of the land;
- on a structure set into the surface of the land; and
- under the surface of the land.

2.3 In response to the Court of Appeal's judgment in the WRG case, at Budget 2009 the Government announced that it would legislate in 2009 to make clear that, notwithstanding how landfill tax legislation currently determines what is a taxable disposal, use of material for the following purposes constitutes a taxable disposal:

- daily cover;
- temporary haul roads;
- temporary hard standing;
- cell bunds - not part of the engineering structure;
- temporary screening bunds; and
- temporary storage of ashes (including pulverised fuel ash and furnace bottom ash).

2.4 A number of other minor changes will be made to ensure the continued coherence of landfill tax legislation.

2.5 The legislation outlined above is due to come into force on 1 September 2009. These changes will ensure that the tax continues to be viable and to contribute fully to the achievement of environmental objectives. The Government believes that a more comprehensive rethink of the legal definition of a taxable disposal of waste at a landfill site is now appropriate. The WRG case has demonstrated that landfill tax is not fully in line with current environmental protection regulation and waste industry practice. Review and modernisation should result in greater certainty and clarity for taxpayers.

Options for change

2.6 This section considers the options for redrawing the way in which landfill tax legislation defines what constitutes a taxable disposal of waste at a landfill site. It focuses on the need to establish, for the purposes of the tax:

- **The area.** Landfill tax is intended to reflect the environmental impact associated with the actual landfilling of waste. Other activities, including recovery activities, may be co-located with the tipping area.¹ Landfill tax is not aimed at any impacts resulting from these other activities.
- **The activities.** The tax aims to recognise that disposal is the least desirable of the waste management options. The intention is not to tax recovery activities such as site engineering, capping or site restoration. Equally, the tax is not intended to capture activities that occur prior to the creation of the tipping area or after its restoration.
- **The material.** The tax is concerned with addressing the environmental impacts associated with waste going to landfill. The intention is not to tax non-waste materials.

Defining the area in which a taxable disposal takes place

Lead option

2.7 Current approaches to environmental protection regulation across the UK mean that the tipping area is now more readily identified in site permits. Under the separate permitting arrangements in place in England and Wales, Scotland and Northern Ireland each site permit refers specifically to the part of the site which is actually a landfill (in terms of it being a tipping area) clearly differentiating it from parts of the site which are not landfill.

2.8 The lead option is, therefore, to legislate to provide that the taxable area on a site is that which:

- in England and Wales, is identified as a landfill in a permit issued under the Environmental Permitting (England and Wales) Regulations 2007;
- in Scotland, is identified as a landfill in a permit issued under the Pollution Prevention and Control (Scotland) Regulations 2000 (SSI 2000 No 323); and
- in Northern Ireland, is identified as a landfill in a permit issued under the Pollution Prevention and Control Regulations (Northern Ireland) 2003 (SR 2003 no 46).

2.9 While some landfills are still subject to the waste management licensing regime, it is not envisaged that this will be the case at the time that changes as a result of this consultation come into effect. However, appropriate reference will be made in the tax legislation if necessary.

¹ The term "tipping area" is used to mean the area of tipping which may be, but which will not inevitably be, a void.

Under current waste management licensing arrangements, the landfill in terms of the tipping area is clearly identified.

2.10 The advantage of this option is that it is based on existing administrative arrangements and burdens (those associated with permitting). Additional burdens would be minimised.

Defining the area in which a taxable disposal takes place

Question 1:

Under this option what, if anything, that is currently taxed would fall out of the tax?

Alternative approach

2.11 Alternatively, liability to tax could instead be linked to the existence of a landfill as defined by the EU Landfill Directive. The Directive definition of landfill is as follows:

“landfill” means a waste disposal site for the deposit of the waste onto or into land (i.e. underground), including:

- *internal waste disposal sites (i.e. landfill where a producer of waste is carrying out its own waste disposal at the place of production); and*
- *a permanent site (i.e. more than one year) which is used for temporary storage of waste;*

but excluding:

- *facilities where waste is unloaded in order to permit its preparation for further transport for recovery treatment or disposal elsewhere; and*
- *storage of waste prior to recovery or treatment for a period of less than 3 years as a general rule; or*
- *storage of waste prior to disposal for a period of less than 1 year.*

2.12 However, this approach could be cumbersome. Each site would need to be considered separately against the definition. In effect, such a consideration is already carried out for the purposes of environmental permitting.

Taxable area – alternative approach

Question 2:

Do you see any advantages in defining the taxable area of a landfill as set out in the EU Landfill Directive?

Defining the taxable activities

Lead option

2.13 Current approaches to environmental protection regulation across the UK mean that the phase of a landfill’s operation in which disposal is carried out is now more readily identifiable. Under the separate permitting arrangements in place in England and Wales, Scotland and Northern Ireland there is a clear distinction between this phase and, for example, pre-disposal site engineering and post-disposal site restoration.

2.14 The lead option, therefore, is to legislate to provide that the taxable activities in a taxable area are those taking place:

- in England and Wales, during the operational phase as identified in a permit issued under the Environmental Permitting (England and Wales) Regulations 2007;
- in Scotland, during the operational phase as identified in a permit issued under the Pollution Prevention and Control (Scotland) Regulations 2000 (SSI 2000 No 323); and
- in Northern Ireland, during landfill activities as identified in a permit issued under the Pollution Prevention and Control Regulations (Northern Ireland) 2003 (SR 2003 no 46).

2.15 As with defining the taxable area, the advantage of this option is that it is based on existing administrative arrangements and burdens. Additional burdens would be minimised.

Defining taxable activities

Question 3:

Are you aware of any circumstances where this proposal would mean that activities which are currently within the tax (or will be from 1 September when the changes announced at Budget 2009 come into effect) would fall out of the tax?

Question 4:

Are you aware of any circumstances where activities not currently subject to tax (or not subject to tax from 1 September 2009) would become subject to tax as a result of the proposal?

Alternative approach

2.16 It might be possible to specify the disposal phase of a landfill by exemption. For example, activities prior to disposal, such as site construction, would be explicitly exempted from tax as would activities after disposal, such as capping. However, the creation of exemptions would require precise definitions of what was exempt while, at the same time, it would not be possible to remove the scope for different interpretations. This approach might not, therefore, produce the best outcome in terms of clarity.

Taxable activities – alternative approach

Question 5:

Are there any arguments to support the option of using exemptions to remove certain activities from the tax in order to define the taxable activities?

Question 6:

Are there any other approaches to defining taxable activities?

Defining the taxable material

Lead option

2.17 There are circumstances in which it would not be appropriate to tax material entering the taxable area during the period of the taxable activities – for example, plant and machinery undertaking the tipping should not be taxed as it is clearly not waste. In addition, the Government believes that the use of waste for engineering purposes where that waste is serving as a substitute for virgin material should not be taxed.² The use of material to construct barriers on the bottom or top (cap) of a landfill would not, in any case, be taxable as this use would not take place during the operational phase of the landfill.

2.18 The lead option is to allow for these circumstances by exclusions for:

- capital items which enter the taxable area during the period of the taxable activities on a short-term, temporary basis - that is, the item is in the area for less than three months;
- cell bunds and side wall lining systems forming part of the engineering structure;
- mineral material including clay used to form separate cells on the base of the landfill as part of the engineered containment; and
- pipework within the body of the landfill used for the extraction of gas or leachate.

2.19 The first exclusion would take plant and machinery out of the scope of the tax. The others would take out the use of waste as a substitute for virgin material for engineering purposes, where the engineered feature is not incorporated into the mass of the landfill.

2.20 Under this option, daily cover and material used to construct temporary engineering features such as haul roads and protective barriers (“bunds”) would become subject to tax at the point of permanent incorporation into the fill of the landfill site (the 2009 legislation will, in any case, provide that material put to these temporary uses becomes liable to tax – tax would be due at the point of entry onto the site). Material put to these uses would be subject to tax regardless of any commercial transactions associated with it being acquired or whether it was a product bought specifically for the purpose.

2.21 The advantage of this option would be clarity. Preliminary consideration suggests that tightly defined exclusions would limit the scope for dispute about what was and was not taxable.

² In this case “engineering” should be taken to mean the creation of an engineered feature that is not incorporated into the mass of the landfill.

Defining the taxable material

Question 7:

How could landfill site operators demonstrate to HMRC that material had only been placed in the taxable area on a temporary basis?

Question 8:

Is there anything else that should be excluded from tax on the grounds it is not waste or it is a use of waste for engineering purposes?

Alternative approach

2.22 An alternative approach would be to define waste for the purposes of the tax. The EU Waste Framework Directive (Directive 2006/12/EC) provides a definition of waste. This is transposed in Great Britain by section 75 of the Environmental Protection Act 1990 (see Annex D). In Northern Ireland, it is transposed by Article 2(2) of the Waste and Contaminated Land (Northern Ireland) Order 1997 (1997 No. 2998 (N.I. 19)).

2.23 However, defining waste in landfill tax legislation would mean continuing complexity. Litigation concerning the tax under the current legislation, which does define waste, has demonstrated the way in which interpretation can become problematic.

Taxable material – alternative approach

Question 9:

What other arguments are there for or against defining waste for the purposes of tax (with waste defined by reference to the EU definition of waste)?

What constitutes a taxable disposal

Question 10:

Aside from the options outlined, can you envisage other approaches and options not considered which might be viable or preferable for defining what constitutes a taxable disposal?

Practical consequences of the options

2.24 Under the lead options above, tax would become due, in effect, when waste entered the tipping area during its operational/ active phase (this would be the “tax point”). This is in contrast to the current situation where liability to tax arises when waste enters the gate to the site.³

2.25 At the tax point, information needs to be available on the weight of the waste and whether it is standard or lower rated for the purposes of accounting for and assuring the tax.

³ Alternatively, landfill site operators may use the invoice date as the tax point. The invoice date must be within 14 days of the point the waste enters the site unless HMRC agree an extension.

2.26 Under current practice, waste may be weighed and its characteristics assessed at the point that it comes through the site gate. This is for tax and other reasons – landfill site operators need to satisfy the requirements of environmental regulation and generate the information necessary to invoice their customers accurately.

Consignment to tipping area on entering the site

2.27 In many cases, waste entering the site for disposal is immediately consigned to the tipping area. In such circumstances, under the lead options, information gained about the waste at the point it entered the site would be sufficient for the purposes of establishing tax liability at the tax point. No additional weighing or characterising would be required. On this basis, there would be no additional administrative burden.

2.28 Waste would have to be consigned to the tipping area within a certain period of it entering the site. Were consignment not to occur within this time, additional weighing or characterisation would be appropriate.

Practical consequences – consignment to tipping area on entering the site

Question 11:

What should be the time limit between waste entering the site and it being consigned to the tipping area (waste consigned outside this limit would be required to be submitted to additional weighing or characterisation)?

Consignment to recovery etc activities on entering the site

2.29 In some cases, waste entering the site is first placed in an area (which, before 1 September 2009, may be designated a tax-free area) where processing, recovery, sorting etc is carried out. In these circumstances, there is a time lag between the waste entering the site and it entering the tipping area. Under the lead options, it would be a requirement that such waste be weighed and characterised immediately prior to tipping (the tax point). This would replace the current burdens associated with tax-free areas such as separate weighing and characterisation and the requirement to keep a separate disposal account.

Temporary use prior to disposal

2.30 In a few cases, waste entering the site and intended for ultimate disposal may first be put to a temporary use in, for example, a haul road or bund. Under the lead options, it would be a requirement that such waste be weighed and characterised immediately prior to tipping (the tax point). There might be some additional administrative burden associated with this requirement. However, the amount of waste involved would be modest.

Practical consequences – temporary use prior to disposal

Question 12:

What would be the administrative costs associated with temporary use prior to disposal?

Question 13:

What records are already generated which could be used to establish the tax liability of material used for haul roads, bunds etc?

Question 14:

What scope is there to use volume to weight calculations, or similar proxies, as opposed to actual weighing?

Other issues

2.31 HMRC envisages taking powers to request information about temporary features that are in close proximity to a taxable area. This will give HMRC a degree of forewarning that the material used to construct such features may, in due course, be subject to taxable disposal.

2.32 Under the lead options, it is envisaged that, as now, a landfill tax account would be held by the operator together with supporting information.

Practical consequences – other issues

Question 15:

Landfill tax legislation currently provides for the tax point to be the invoice date. Would such a tax point continue to be appropriate under the lead options and what adaptations might be necessary?

Question 16:

Do you envisage any practical consequences arising from the lead options which are not discussed here?

3

Wastes that qualify for the lower rate of tax

3.1 This chapter looks at how the legislation currently defines wastes that qualify for the lower rate of tax and recent developments. It then considers options for tightening definitions to provide clarity and strengthen the environmental integrity of the tax. Transitional arrangements are also considered.

Current situation and recent developments

3.2 The lower rate of tax recognises that there is a relatively low level of environmental impact associated with the landfilling of wastes which are inert. Inert wastes do not biodegrade – they do not produce landfill gas and there is no risk of pollution to groundwater or surface water. Inert waste landfills can be subject to a much shorter period of aftercare and be returned more readily to other productive uses.

3.3 Currently, legislation provides that listed wastes are those which qualify for the lower rate. The list is set out in the Landfill Tax (Qualifying Material) Order 1996.

Wastes listed in the Landfill Tax (Qualifying Material) Order 1996

Group	Description of Material	Conditions
Group 1	Rocks and soils	Naturally occurring
Group 2	Ceramic or concrete materials	
Group 3	Minerals	Process or prepared, not used
Group 4	Furnace slags	
Group 5	Ash	
Group 6	Low activity inorganic compounds	
Group 7	Calcium sulphate	Disposed of either at site not licensed to take putrescible waste or in containment cell which takes only calcium sulphate
Group 8	Calcium hydroxide and brine	Deposited in brine cavity
Group 9	Water	Containing other qualifying material in suspension

Further details are provided at Annex D

3.4 Recent developments on what constitutes inert waste are not currently reflected in landfill tax legislation:

- the EU Landfill Directive introduced the obligation to classify landfills as either hazardous, non-hazardous or inert and requires that wastes must be sent to a landfill of the appropriate class with no co-disposal;
- the Council Decision on WAC has set out the standards that waste must meet to be accepted at the three classes of landfill and a testing regime under which it is demonstrated that wastes meet the criteria; and

- the EWC has allocated to each waste a six digit code based on either the source that generated the waste or the type of waste.

Options for change

Lead option

3.5 The Government proposes to follow the various tests in European legislation for determining which wastes are inert for tax purposes. The benefit of the lower rate would be restricted to these wastes. There would be an end to lower rating on the basis of wastes listed as inert only for the purposes of the tax.

3.6 The tests in European legislation provide for a meaningful understanding of waste and its impact. By restricting the benefit of the lower rate according to these tests, the environmental integrity of the tax would be strengthened. There would be greater certainty that lower rated wastes are properly inert.

3.7 For the purposes of comparison, the list of lower rated wastes is at Annex D and the wastes that are considered to be inert under European legislation are at Annex E.

3.8 A number of wastes that are currently lower rated may not be inert in terms of European legislation. Under this option such wastes would cease to be lower rated. They appear to include:

- coal fly ash (pulverised fuel ash);
- bottom ash and slag and boiler dust;
- furnace slags including slag from waste incineration;
- used foundry sand;
- gypsum/ calcium sulphate;
- brine waste;
- red mud; and
- low activity inorganic compounds.

Waste is not inert under European legislation where it is mixed with non-inert waste. Under current landfill tax legislation, mixed loads may be lower rated where the non-inert part of the load is an incidental quantity.

Lower rate – lead option

Question 17:

Can you supply information on the extent to which the wastes listed in paragraph 3.8 are still produced in the UK? Do you agree that these wastes are currently lower rated and would become standard rated under the lead option?

Question 18:

Are you aware of any other wastes which would cease to be lower rated under the proposal?

Question 19:

Are you aware of any wastes which would be brought into the lower rate of tax under the proposal?

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.

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?

Alternative approach

3.9 While it is proposed that the criterion for lower rating waste should be entirely based on the waste's inert characteristics, the Government acknowledges that there may be environmental arguments for introducing additional criteria for lower rating waste. However, these would have to be carefully balanced against the need to develop a robust legislative basis for the tax and to comply with European State Aid rules.

3.10 The Government cannot consider arguments for lower rating wastes on the basis of the impact it may have on particular industries (in terms of the current state of markets etc). Lower rating on this basis would undermine the environmental objectives of the tax. Furthermore, State Aid rules constrain the ability of the Government to make concessions which favour particular industries. Nevertheless, for modelling purposes we would be interested in understanding the impact on particular industries (see question 20).

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 wastes be subject to? What would be the environmental benefits?

Lower rate transitional arrangements

Lead option

3.11 The Government believes that there may be a case for transitional arrangements to assist in managing the impact of wastes moving from the lower rate to the standard rate of tax. The lead option is to delay the implementation of the more restrictive definition for a year from the implementation of the other changes in this consultation document. This delay would provide an opportunity to find alternative waste management options for the wastes in question.

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?

Alternative approach

3.12 Alternatively, waste moving from the lower rate to the standard rate could be given the benefit of a separate transitional rate for a defined period of time. This transitional rate would be set at a point between the standard and lower rate and would be applied to wastes on a list prescribed in legislation.

3.13 There would be considerable administrative implications for both business and HMRC. For example, IT systems would need to be amended to deal with the transitional rate. In addition, the checks undertaken by HMRC to ensure that the tax is properly paid would become more complex and would, in turn, impose a greater burden on business. Nevertheless, views are invited.

Lower rate transitional arrangements – alternative approach

Question 24:

What are the benefits and disadvantages of a transitional rate?

Question 25:

What should be the level of the transitional rate and how long should it be kept in place?

Question 26:

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

4

Conclusion

4.1 Landfill tax remains a cornerstone of waste policy. This consultation aims to ensure the continued soundness of the administrative and legislative arrangements that underpin the tax. This will ensure that the tax is robust and well placed to continue to fulfil its environmental policy objectives.

4.2 Views are sought on the questions set out below.

Number	Subject	Question
What constitutes a taxable disposal		
1	Defining the area in which a taxable disposal takes place	Under this option what, if anything, that is currently taxed would fall out of the tax?
2	Taxable area – alternative approach	Do you see any advantages in defining the taxable area of a landfill as set out in the EU Landfill Directive?
3	Defining taxable activities	Are you aware of any circumstances where this proposal would mean that activities which are currently within the tax (or will be from 1 September when the changes announced at Budget 2009 come into effect) would fall out of the tax?
4		Are you aware of any circumstances where activities not currently subject to tax (or not subject to tax from 1 September 2009) would become subject to tax as a result of the proposal?
5	Taxable activities – alternative approach	Are there any arguments to support the option of using exemptions to remove certain activities from the tax in order to define the taxable activities?
6		Are there any other approaches to defining taxable activities?
7	Defining the taxable material	How could landfill site operators demonstrate to HMRC that material had only been placed in the taxable area on a temporary basis?
8		Is there anything else that should be excluded from tax on the grounds it is not waste or it is a use of waste for engineering purposes?
9	Taxable material – alternative approach	What other arguments are there for or against defining waste for the purposes of tax (with waste defined by reference to the EU definition of waste)?
10	What constitutes a taxable disposal	Aside from the options outlined, can you envisage other approaches and options not considered which might be viable or preferable for defining what constitutes a taxable disposal?

Number	Subject	Question
What constitutes a taxable disposal		
11	Practical consequences – consignment to tipping area on entering the site	What should be the time limit between waste entering the site and it being consigned to the tipping area (waste consigned outside this limit would be required to be submitted to additional weighing or characterisation)?
12	Practical consequences – temporary use prior to disposal	What would be the administrative costs associated with temporary use prior to disposal?
13		What records are already generated which could be used to establish the tax liability of material used for haul roads, bunds etc?
14		What scope is there to use volume to weight calculations, or similar proxies, as opposed to actual weighing?
15	Practical consequences – other issues	Landfill tax legislation currently provides for the tax point to be the invoice date. Would such a tax point continue to be appropriate under the lead options and what adaptations might be necessary?
16		Do you envisage any practical consequences arising from the lead options which are not discussed here?
Wastes that qualify for the lower rate of tax		
17	Lower rate – lead option	Can you supply information on the extent to which the wastes listed in paragraph 3.8 are still produced in the UK? Do you agree that these wastes are currently lower rated and would become standard rated under the lead option?
18		Are you aware of any other wastes which would cease to be lower rated under the proposal?
19		Are you aware of any wastes which would be brought into the lower rate of tax under the proposal?
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.
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?
22	Lower rating – alternative approach	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 wastes be subject to? What would be the environmental benefits?
23	Lower rate transitional arrangements – lead option	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?

Number	Subject	Question
Wastes that qualify for the lower rate of tax		
24	Lower rate transitional arrangements – alternative approaches	What are the benefits and disadvantages of a transitional rate?
25		What should be the level of the transitional rate and how long should it be kept in place?
26		Which wastes which are currently lower rated should be able to benefit from the transitional rate?

A

The Government's Code of Practice on Consultation

About the consultation process

This consultation is being conducted in accordance with the Government's Consultation Code of Practice. If you wish to access the full version of the Code, you can obtain it online at:

<http://www.berr.gov.uk/files/file47158.pdf>

The consultation criteria

- 1 When to consult – Formal consultation should take place at a stage when there is scope to influence the policy outcome.
- 2 Duration of consultation exercises – Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
- 3 Clarity of scope and impact – Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
- 4 Accessibility of consultation exercise – Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
- 5 The burden of consultation – Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- 6 Responsiveness of consultation exercises – Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- 7 Capacity to consult – Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you feel that this consultation does not satisfy these criteria, or if you have any complaints about the process, please contact:

Richard Bowyer,
HMRC Better Regulation Unit
020 7147 0062 or
richard.bowyer@hmrc.gsi.gov.uk

B

Impact Assessment

Summary: Intervention & Options

Department /Agency:
HM Revenue & Customs

Title:
Impact Assessment of Modernising Landfill Tax
Legislation

Stage: Consultation

Version: 1

Date: 22 April 2009

Related Publications: Modernising Landfill Tax Legislation – Consultation Document (22 April 2009)

Available to view or download at:

<http://www.hmrc.gov.uk/ria/index.htm#partial>

Contact for enquiries: Katherine Mansfield

Telephone: 020 7147 0116

What is the problem under consideration? Why is government intervention necessary?

Landfill tax reflects the significant impact that landfilling has on the environment. By ensuring that waste producers incorporate the environmental cost of waste disposal into business decisions, the tax encourages use of more sustainable waste management solutions. It is timely to review the legislation underpinning the tax and the way in which that legislation reflects environmental protection legislation and waste industry practice. Review and modernisation will mean that the tax will continue to be able to achieve its objectives in the long-term.

What are the policy objectives and the intended effects?

The aim is to ensure the continued soundness of the administrative and legislative arrangements on which landfill tax is based. This will ensure that the tax is robust and well placed to continue to make an important contribution to achieving environmental policy objectives.

The consultation considers what constitutes a taxable disposal and in particular:

- the definition of a taxable disposal of waste at a landfill site; and
- the definition of wastes that should qualify for the lower rate of tax.

What policy options have been considered? Please justify any preferred option.

The consultation puts forward a number of lead options and alternatives. "Do nothing" is always a policy option but as the principles of continuous improvement suggest that change would be timely, this Impact Assessment has examined options for change:

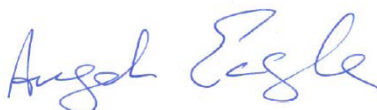
- 1) Changing how it is determined what constitutes a taxable disposal of waste at a landfill site by
 - defining the taxable area and activities using environmental protection legislation, and
 - defining taxable material by means of exclusions.
- 2) Restricting wastes benefiting from the lower rate to those which are inert according to the EU Landfill Directive to strengthen the environmental rationale underpinning the lower rate.

Costs and benefits are compared relative to those under the do nothing option.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Within three years from the date that any changes are implemented.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.



Signed by the responsible Minister:

Date:

07/04/2009

Summary: Analysis & Evidence

Policy Option: A	Description: Changing how it is determined what constitutes a taxable disposal of waste at a landfill site
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Registered (for tax purposes) landfill operators would have to familiarise themselves with any changes at a cost of approximately £30,000. There would also be one-off costs to HMRC of approximately £70,000.
	One-off (Transition)	Yrs	
	£ 100,000	1	
	Average Annual Cost (excluding one-off)		
	£ to be quantified		
Total Cost (PV)			£ To be quantified
Other key non-monetised costs by 'main affected groups' The consultation asks for views on practical consequences and impacts. In particular, it asks for options for minimising the burden associated with the need to weigh immediately prior to tipping waste previously subject to a temporary use.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Landfill operators would benefit from consistency between the terms of their environmental permits and the way in which liability to tax is defined. There should be greater clarity about when there is/ is not a tax liability.
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ to be quantified		
Total Benefit (PV)			£ To be quantified
Other key non-monetised benefits by 'main affected groups' Modernisation of the tax to bring it in line with environmental protection legislation and industry practice. This will ensure the continued soundness of administrative and legislative footing on which landfill tax is based and mean that the tax will continue to contribute fully to its environmental policy objectives.			

Key Assumptions/Sensitivities/Risks The option as set out is not intended to have any significant impact upon overall revenue receipts. The assumption is that the tax base would remain the same without any real change to the scope of the tax in terms of the taxable area, activities and the materials subject to the tax.

Price Base Year 2009	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ To be quantified
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What is the geographic coverage of the policy/option?		UK			
On what date will the policy be implemented?		2010 or later			
Which organisation(s) will enforce the policy?		HMRC			
What is the total annual cost of enforcement for these organisations?		£ n/a			
Does enforcement comply with Hampton principles?		Yes			
Will implementation go beyond minimum EU requirements?		No			
What is the value of the proposed offsetting measure per year?		£n/a			
What is the value of changes in greenhouse gas emissions?		£ To be assessed			
Will the proposal have a significant impact on competition?		No			
Annual cost (£-£) per organisation (excluding one-off)		Micro tbq	Small tbq	Medium tbq	Large tbq
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)		
Increase of £	Decrease of £	Net Impact	£ To be quantified	

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Policy Option: B	Description: Restricting wastes benefiting from the lower rate to those which are inert according to the EU Landfill Directive to strengthen the environmental rationale underpinning the lower rate
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Registered landfill operators and producers of waste would have to familiarise themselves with the change at a cost of around £30,000 and there would be one-off costs to HMRC of around £70,000. Sectors could incur ongoing costs where as a result of the change, the tax liability changes (administrative costs and costs associated with diversion to alternatives).
	One-off (Transition)	Yrs	
	£ 100,000	1	
	Average Annual Cost (excluding one-off)		
	£ to be quantified		
Total Cost (PV)			£ To be quantified
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Lower rating of waste would be determined by whether waste is inert according to the EU Landfill Directive. It would no longer be necessary for landfill operators to apply different tax-specific criteria to determine whether waste is lower rated. There would be an incentive to divert from landfill wastes which did not qualify for the lower rate of tax.
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ to be quantified		
Total Benefit (PV)			£ To be quantified
Other key non-monetised benefits by 'main affected groups' Changes have been requested by inert waste landfill operators with a view to reducing confusion about which wastes are lower rated and which are inert for environmental protection purposes.			

Key Assumptions/Sensitivities/Risks Some waste streams would cease to qualify for the lower rate. The producers of these wastes, which, in some cases, would also be the landfill operator, would incur additional landfill tax liabilities (of between £0 – 160 million based on current landfill tax rates, with this largely dependent on the size of the behavioural response).

Price Base Year 2009	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ To be quantified
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What is the geographic coverage of the policy/option?		UK		
On what date will the policy be implemented?		2010 or later		
Which organisation(s) will enforce the policy?		HMRC		
What is the total annual cost of enforcement for these organisations?		£ n/a		
Does enforcement comply with Hampton principles?		Yes		
Will implementation go beyond minimum EU requirements?		No		
What is the value of the proposed offsetting measure per year?		£ n/a		
What is the value of changes in greenhouse gas emissions?		£ To be assessed		
Will the proposal have a significant impact on competition?		No		
Annual cost (£-£) per organisation (excluding one-off)	Micro tbq	Small tbq	Medium tbq	Large tbq
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)		
Increase of £	Decrease of £	Net Impact	£ To be quantified	

Key: Annual costs and benefits: (Net) Present

1. The issue/consultation

Landfill tax reflects the significant impact that landfilling has on the environment. By ensuring that waste producers incorporate the environmental cost of waste disposal into business decisions, the tax encourages use of more sustainable waste management solutions. It is timely to review the legislation underpinning the tax and the way in which that legislation reflects environmental protection legislation and waste industry practice. Review and modernisation will mean that the tax will continue to be able to achieve its objectives in the long-term.

This consultation Impact Assessment focuses on the design issues that relate to the costs and benefits of the options (outlined below) and their administrative burdens and landfill tax revenue implications for registered landfill operators. Waste producers and other waste management businesses would also be affected. All costs and estimates are against a baseline of the implementation of the legislative changes announced at Budget 2009.

At 1 March 2009 there were 306 landfill operators registered for landfill tax (referred to as “registered landfill operators”) covering 776 sites. All these landfill operators would be affected by the proposed changes.

2. Policy objectives and intended effects

The reduction of carbon emissions and of the use of natural resources remain at the top of the policy agenda. Landfill tax makes an important contribution to policy objectives in this area by reducing landfilling (where the biodegradable waste would have produced methane – a powerful greenhouse gas) and encouraging more sustainable waste management solutions including reuse and recycling.

The Government’s aim is to ensure the continued soundness of the administrative and legislative arrangements on which landfill tax is based. This will ensure that the tax is robust and well placed to continue to make an important contribution to achieving environmental policy objectives.

3. The Options

A) Changing how it is determined what constitutes a taxable disposal of waste at a landfill site

In order for the tax to operate there needs to be a clear understanding of what constitutes a taxable disposal of waste at a landfill site. It is timely to review the current legislation in this area and the way in which it reflects environmental protection legislation and waste industry practice. These are areas where there have been significant changes in recent years. Recent litigation has taken out of tax materials for which there is a policy imperative to tax. While waste will be brought back into tax by legislation taking effect in 2009-10 (which is not the subject of this consultation) this will make landfill tax legislation as a whole more complex and less coherent.

There are strong arguments for the lead option which is to define more tightly both the taxable activities and the taxable area. The taxable activities and taxable area would be those which the environmental permit for the site made clear are disposal activities at a landfill. There would be a small number of exclusions to take out of tax the placing of non-waste (e.g. plant and machinery, engineering features) in a landfill.

Costs

There would be some one-off familiarisation compliance costs associated with this option. All registered landfill operators would need to familiarise themselves with the new arrangements and we would expect this to be done for each landfill site. Assuming a typical hourly rate of around £20, the total one-off cost of familiarisation is estimated to be around £30,000 based on spending two hours at each of the 776 landfill sites.

Under the lead option, the physical point at which the tax would arise (the tax point) would be the point at which waste entered the taxable area during the period of taxable activities (i.e. the point at which waste was tipped into the landfill). This is in contrast with the current situation where liability to tax arises, in most cases, at the point at which waste enters the gate to the landfill site.

On the face of it, it might appear that this would require additional record keeping at the point of tipping. In fact, we believe additional records would not be required in most cases because existing records relating to waste entering the site and waste being subject to processing on site would be sufficient. However, we have identified the possible need for additional recording by landfill operators of the weight of waste at the point of tipping where that waste has been previously put to a temporary use on site (e.g. as a haul road or bund). It is not envisaged that this would apply to more than a small proportion of total waste subject to the tax. The consultation seeks options for minimising any additional burden.

Landfill operators would be required, as at present, to maintain a “disposal record” for tax purposes.

The consultation asks if there would be any impacts or practical consequences which we have not envisaged.

It is not intended or anticipated that this option would extend the scope of landfill tax. Consequently we would not expect the landfill tax due from landfill operators to change. Tax would be due at a significantly later point than at present where waste was first put to use on a site (it is currently due at the point of entry through the site gate and it would become due at the point of tipping). However, as explained above, we do not expect that this would be relevant to significant volumes of waste.

Benefits

Landfill operators would benefit from consistency between the terms of their environmental permits and tax legislation. This would minimise the scope for disputes and mean there would be greater clarity and certainty about what would/ would not be subject to tax. There would also be greater clarity and certainty for HMRC and environmental regulators. Comments and evidence on the reduction of compliance burdens and the value of savings would be welcome.

By ensuring that what is taxed is the disposal of waste at a landfill site in line with the up-to-date understanding of these terms, this option would ensure the achievement of the policy objective of making sure that the environmental impact of landfilling waste is reflected in its cost.

The expectation is that legislation would continue to allow landfill operators to set the tax point as the invoice date. The consultation has invited comments on this expectation and, should any amendments be required to the landfill tax invoicing regulations, any costs or benefits will be considered during the policy making process and disclosed within the final Impact Assessment.

HMRC will publish a best assessment of the costs and benefits of the options in any final Impact Assessment.

Administrative burden effects (compared with post Budget 2009 baseline)

HMRC is committed to reducing compliance costs to businesses, and in particular the administrative burdens incurred due to requirements to disclose information to HMRC or third parties. This “administrative burden” is assessed through the “Standard Cost Model” (SCM), an activity-based costing methodology which considers the activities that businesses need to undertake to comply with their legal obligations, and estimates the cost of such activities.

At Budget 2009, a small number of low-value administrative burdens (e.g. those relating to tax-free areas) were replaced with requirements to similar effect to supply HMRC with information. Overall this resulted in only a very small reduction in administrative burden as measured by the SCM.

The additional record-keeping requirements associated with the tipping of waste previously subject to a temporary use on site (see above), would, it is estimated on the basis of the SCM, result in minimal additional cost - up to £4,000 at 2005 prices (on the assumption that the burden might be similar to that currently associated with tax-free areas).

Under this option, landfill operators might also be required to supply HMRC with additional information in respect of temporary features in close proximity to the area of tipping. Again, it is estimated, using the SCM, that these extra administrative burdens would be minimal.

Impact on HMRC

There would be one-off costs estimated to be £70,000 for HMRC to write and publish new landfill tax publications and guidance and to familiarise and train staff.

Revenue impacts

It is not intended or anticipated that this option would significantly alter the scope of landfill tax relative to the post Budget 2009 baseline. Consequently, we expect that the change would have negligible impact on Exchequer revenues. Where waste is subject to temporary use on site the tax point would be delayed (from the point it entered the site as at present to the point it was tipped). However, we expect that this would affect only a small amount of waste.

The alternative approaches

The consultation document also suggests potential alternative options:

- identifying the area where materials deposited could be subject to landfill tax by reference to the definition of landfill in the EU Landfill Directive;
- defining the activities subject to tax by exemption; or
- identifying the materials subject to landfill tax by reference to a definition of waste.

While these approaches would achieve the effect of the lead option, there would be a greater degree of complexity involved. Nevertheless, the consultation welcomes comments on these and any other approaches which may be envisaged.

B) Restricting wastes benefiting from the lower rate to those which are inert according to the EU Landfill Directive to strengthen the environmental rationale underpinning the lower rate

The lower rate of landfill tax recognises that there is a relatively low level of environmental impact associated with the landfilling of certain wastes. Currently, legislation provides that wastes which are inert or inactive may be prescribed and qualify for the lower rate. The list of prescribed wastes is set out in the Landfill Tax (Qualifying Material) Order 1996. Recent developments in the thinking on what constitutes inert waste – primarily at a European level – are not reflected in landfill tax legislation.

The lead option is that, in order to benefit from the lower rate, wastes would have to be on the EU Landfill Directive list of inert wastes or meet the Waste Acceptance Criteria (WAC) for inert waste as set out in the Council Decision on the WAC. This definition would mean that some wastes which are listed in the Landfill Tax (Qualifying Material) Order 1996 would cease to be lower rated since they are not regarded as inert by the Landfill Directive. We do not think that this option would mean any significant amounts of currently standard rated waste would become lower rated, although comments on this assumption are welcome.

Costs

The continuing costs of complying with the landfill tax would be unaffected, as the obligations to register for landfill tax, complete returns and pay landfill tax would remain unchanged. But these administrative costs, as measured by the SCM, are only a subset of overall compliance costs. Other compliance costs include the costs of transition (such as time spent becoming familiar with new rules). There would also be additional costs associated with diverting these materials to alternative treatment methods.

As a result, registered landfill operators and producers of waste would have to familiarise themselves with the changes in liabilities of certain wastes. Some landfill operators might incur one-off costs, such as:

- amending software or invoices in order to ensure that the invoices carry the correct landfill tax liability statements;
- re-pricing in order to recharge the additional tax; and
- extra checks to ensure the correct amount of tax is declared.

About 80% of the registered landfill operators that have submitted positive returns in the past 12 months handle lower rated waste. However, to some degree all registered landfill operators would be directly affected. Each of them would need to familiarise themselves with the new rules. We would expect this to be done for each landfill site. Assuming a typical hourly rate of around £20, the total one-off cost of familiarisation is estimated to be £30,000 based on spending two hours at each of the 776 landfill sites on the tax register.

Since the landfill tax liability would be determined by criteria which are already used for environmental protection purposes we do not anticipate that there would be any additional testing or other costs associated with determining the landfill tax liability of wastes put to landfill.

The consultation document identifies a number of wastes which would cease to be lower rated because they are not inert according to the EU Landfill Directive. A number of business sectors producing these materials might therefore incur an additional liability to pay landfill tax either as a registered landfill site operator or as a producer of the waste or both. This would equate to an additional £37.50 a tonne in 2009-10 compared with continuing to pay the lower rate. The wastes that would be affected are highlighted in the consultation document.

The following table shows the wastes we believe might cease to be lower rated. For each the table shows the estimated landfill tax liability at the current lower rate, the estimated landfill tax if the waste were to be standard rated in 2009-10 and the difference between the two figures (i.e. the estimated additional landfill tax liability under the lead option). These figures are drawn from a number of sources (as noted) and are produced here to illustrate the estimated additional landfill tax liability should all these wastes continue to be sent to landfill. This is not an exhaustive list and there would be other materials that could not be separately identified from waste data sources which are not included in the table which are also not inert according to the EU Landfill Directive. Consequently, these figures and estimates must be treated with caution and any additional evidence on these and other materials will be welcomed as part of the consultation process.

The Landfill Tax (Qualifying Material) Order 1996	Waste material	Estimated tonnage put to landfill	Landfill tax due at lower rate £2.50/tonne	Landfill tax due at standard rate £40.00/tonne	Additional landfill tax due
Group 3 Minerals	Used foundry sand*	200,000	£0.5m	£8m	£7.5m
Group 4 Furnace slags	Furnace slags (thermal processing of minerals)	670,000	£1.7m	£26.8m	£25.1m
Group 4 Furnace slags	Waste incineration slag	314,000	£0.8m	£12.6m	£11.8m
Group 5 Ash	Coal fly ash **	3,000,000	£7.5m	£120m	£112.5m
Group 7 Calcium sulphate	Gypsums	11,000	£0.03m	£0.4m	£0.4m
Group 8 Calcium hydroxide and brine	Brine purification wastes	44,000	£0.1m	£1.8m	£1.7m

Source: Environment Agency Waste Data 2007

*Communities and Local Government 2007 Construction Demolition and Excavation Waste (CDEW) Survey of arisings and use of alternatives to primary aggregates in England 2005

** Waste & Resources Action Programme (WRAP)/Environment Agency 2008 Waste Protocol Project- Pulverised fuel ash and furnace bottom ash

The table above suggests that up to an estimated £160 million additional landfill tax could be raised under the lead option based on current landfill tax rates. The potential impact would increase as the differential between the lower and standard rates increases. However, the actual impact would be likely to be much lower than this because of the behavioural effects of increasing the landfill tax rate on these materials. These would include:

- additional recycling or re-use of the waste;
- improvements to processes that produce the waste; and
- alternative waste treatments.

For example, the WRAP/Environment Agency 2008 report on pulverised fuel ash (PFA), which is the main component of coal fly ash, estimated that 50% of PFA is already reused in construction products. An increase in landfill tax liability might encourage a much higher rate of reuse. This would limit the exposure of the industry to additional tax costs but there might be additional costs associated with treating the wastes to enable reuse.

There is also evidence (particularly in the CDEW survey of arisings and use of alternatives to primary aggregates in England 2005) that there could be potential for additional diversion from landfill for used foundry sand, furnace slag and gypsum as a significant proportion of these wastes are already reused.

Further evidence on the scope for additional diversion from landfill for the affected wastes, including on the additional costs of alternative uses or treatments, is welcomed as part of the consultation process.

Under current practice, some mixed wastes with a small quantity of non-qualifying material may be treated as qualifying material and lower rated. Under the lead option this would no longer apply since the waste material would only be inert if it was inert according to the Landfill Directive and mixed wastes are excluded.

There is also some evidence that some wastes might move from being standard rated to lower rated under this option, although the amount of waste is not thought to be significant and only a small amount of revenue would be involved. Waste arisings that may be affected are specific

wastes streams from CDEW and municipal wastes. The following table shows some inert wastes put to inert landfill sites that currently may not qualify as “qualifying materials” but could become lower rated under the lead option. The resulting estimated reduction in landfill tax liability is also shown:

Waste material	Estimated tonnage put to landfill	Landfill tax due at standard rate £40.00/tonne	Landfill tax due at lower rate £2.50/tonne	Landfill tax adjustment
Sludges from water clarification	38,000	£1.5m	£0.10m	-£1.4m
Mechanical sorting residues	78,000	£3.1m	£0.20m	-£2.9m
Mixed municipal wastes	45,000	£1.8m	£0.11m	-£1.7m
Bulky municipal wastes	65,000	£2.6m	£0.16m	-£2.4m
Other municipal wastes	57,000	£2.3m	£0.14m	-£2.2m

Source: Environment Agency Waste Data 2007

Similarly, there may be a number of waste materials that cannot be specifically identified from waste data sources which may not be a lower rated qualifying material but are inert under the EU Landfill Directive e.g. soil and certain mixed CDEW.

The consultation seeks views on transitional arrangements which would help businesses producing wastes which would cease to be lower rated. The lead option is to delay implementation of the change to provide an opportunity for the waste producers to find alternative waste management options. This would avoid additional administrative and compliance costs associated with introducing a temporary intermediate rate (see the Administrative Burden Effects section below).

Benefits

The environmental position of the tax would be strengthened. Only those wastes which are now considered to be inert based on an up-to-date understanding of the impact of such wastes would be lower rated.

For wastes moving from the lower to the standard rate of tax, there would be a greater financial incentive to find alternative uses or disposal methods to landfill. As discussed above, the practical effect would depend upon the scope for, and cost of, alternative uses or treatments for the affected wastes. The environmental benefits of any such changes would also depend on the environmental value in employing these alternatives rather than sending the waste to landfill. Evidence is also invited on this point.

Landfill operators would have to classify waste solely in line with the EU Landfill Directive – they would no longer need to apply separate rules to consider whether wastes were lower rated for tax purposes. This would give greater clarity and certainty by removing confusion for waste producers and landfill operators as well as HMRC and environmental regulators. Respondents to a recent Defra/ Environment Agency/ Welsh Assembly Government consultation on inert waste were strongly in favour of clarification along these lines.

Evidence on the scale of the resulting savings would be welcomed.

The lead option for transitional arrangements - delaying the change - would provide time and incentives to find alternative waste management options for the relevant wastes, for example working with WRAP and the Environment Agency’s Waste Protocol Projects.

Administrative burden effects (compared with post Budget 2009 baseline)

Excluding familiarisation and one-off costs, there would be little or no impact on the existing SCM landfill tax baseline administrative burdens associated with this option as the burdens associated with maintaining landfill tax records and accounts, issuing landfill tax invoices and filing the landfill tax return would be unaffected.

Delaying the change (the lead option for transitional arrangements) would equally result in little or no impact on the existing SCM landfill tax baseline administrative burdens. Other options for transitional arrangements, such as a short-term transitional rate, could result in additional burdens for the waste industry such as one-off information technology costs to deal with the transitional and final landfill tax rates, additional administration burdens for record keeping and compliance costs for both the registered landfill operator and HMRC. Should a transitional rate of tax be introduced, the landfill tax return would require an additional box to record tonnages at that rate and landfill tax invoices would need to be amended to show the new tax rate - assuming no additional continuing computer costs these administration burdens are estimated as a whole to be small (£180 a year for an average business or £250 per annum for a large business).

Impact on HMRC

There would also be one-off costs estimated to be £70,000 for HMRC to write and publish new landfill tax publications and guidance and to familiarise and train staff.

These would not be increased under the lead option for transitional arrangements (delay of implementation). However, the costs would increase under other options for transition, such as a short-term transitional rate. In particular, such a transitional rate could entail significant costs to adapt the HMRC IT system to capture and process the new information on returns.

HMRC will publish its best assessment of the HMRC impact in any final Impact Assessment.

Revenue impacts

This option could increase revenues from landfill tax of between £0 and £160 million a year as more waste would fall into the standard rate based on current tax rates. The precise impact would depend largely upon how much waste was diverted to other uses and treatments. It would also depend on how much standard rated waste qualified for the lower rate (as referred to above).

Alternative environmental criteria

The consultation document invites comment on whether there are environmental criteria for lower rating waste other than, or beyond, criteria based on the inert characteristics of the waste. Such environmental criteria could increase the administrative and wider compliance costs of the change. It would be a new requirement to consider wastes against these criteria and we would expect there to be a period of uncertainty about whether wastes did or did not meet the criteria. In addition, there might be additional testing costs as they would not just replicate existing tests.

Against this, additional environmental criteria could reduce the costs of landfilling wastes that pass the test(s). This could be beneficial if the environmental costs of sending the waste to landfill were low, or if landfilling represented a good environmental outcome compared with other possibilities.

Where respondents are proposing additional environmental criteria they are invited, in so far as it is possible, to provide evidence on the costs and benefits of their suggestions covering the points raised above.

4. Impact Tests

Competition assessment

The options for change should not have any adverse impacts on competition, as they are not expected to:

- directly limit the number or range of suppliers;
- indirectly limit the number or range of suppliers;
- limit the ability of suppliers to compete; or
- reduce suppliers' incentives to compete vigorously.

Landfill operators are generally able to pass on the costs of tax to the waste producers. HMRC are not aware of any evidence to suggest that smaller operators are less able to do so than larger operators. Further evidence on this is welcomed if this is not the case.

Small firms impact

There is no minimum registration limit for landfill tax and therefore these options impact upon all registered landfill operators. At 1 March 2009, there were 306 landfill operators with 776 landfill sites on the landfill tax register. The registered operators are dominated by a small number of waste management businesses each operating many landfill sites. The remaining operators have either one or a small number of landfill sites.

For small landfill operators their compliance costs might represent a slightly higher burden relative to larger operators as a percentage of turnover. However, small landfill operators would be less likely to incur the relatively more expensive compliance costs involving advisors and system changes. Landfill tax arrangements should also be simpler than those of larger operators. This should mean that small landfill operators would take less time to implement any changes and therefore we would not expect them to incur any material disadvantage implementing these options relative to the larger landfill operators.

Sustainable development

We expect that these changes would contribute to the Government's commitment to sustainable development, which consists of five principles:

- living within environmental limits;
- ensuring a strong, healthy and just society;
- achieving a sustainable economy;
- promoting good governance; and
- using sound science responsibly.

Modernising the definitions used for landfill tax to reflect environmental protection legislation and waste industry developments would help ensure that the landfill tax has its intended effects in providing an incentive to find more sustainable uses and treatments for waste. Restricting wastes which can qualify for the lower rate of tax would strengthen the environmental position of the tax because only those wastes which were inert based on an up-to-date understanding of their impact would be lower rated.

Carbon assessment and wider environment test

These are considered under the main assessment of potential impacts section. Though they are not yet quantifiable, they would most likely be positive, but may well fall below the de minimis threshold for reporting against the climate change policy cost effectiveness indicator.

Gender, race and disability tests

The proposed changes would affect landfill operators, businesses and other organisations that send waste to landfill. There would be no direct impact on individuals who do not themselves send waste direct to landfill (waste is sent through a third party, often a local authority). As such, we expect that there would be no impact on gender, race or disability.

Human rights test

The proposed changes are compatible with the European Convention on Human Rights.

Rural proofing

We do not expect that there would be any significant difference to the impact of these proposed changes in rural areas. The benefits could also be expected to accrue in any rural areas where landfill sites are located, as less waste would be sent to landfill.

Legal aid and health impact tests

These changes would affect landfill operators, other businesses and other organisations that send waste to landfill. There are no implications for legal aid or potential health impacts.

5. Caveats and risks

At this stage, the availability of quantitative evidence is limited and so it is difficult to draw strong conclusions on the potential benefits and costs of the changes. Input and evidence from waste industry and wider stakeholders would therefore be welcomed.

6. Conclusion

HMRC are of the initial view that these options achieve a good balance between the benefits from reforming landfill tax to make sure it continues to achieve policy objectives and the costs to the waste industry and wider economy of implementing the changes. We do not expect there to be any significant increases in administrative burdens as a result of implementing these options.

HMRC recognises that there are some significant gaps in the evidence base within this consultation Impact Assessment and are seeking further evidence and information through the consultation process.

Where any options are implemented, HMRC will monitor progress continuously to ensure their objectives are achieved.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No



European definition of waste

The EU Waste Framework Directive definition of waste is transposed in Great Britain¹ by means of the Environmental Protection Act 1990 (“that Act”) as amended by paragraph 88 of schedule 22 to the Environment Act 1995, which states that:

(1) Section 75 of that Act (meaning of “waste” etc.) shall be amended in accordance with the following provisions of this paragraph.

(2) For subsection (2) (definition of “waste”) there shall be substituted—

“(2) “Waste” means any substance or object in the categories set out in Schedule 2B to this Act which the holder discards or intends or is required to discard; and for the purposes of this definition—

“holder” means the producer of the waste or the person who is in possession of it; and

“producer” means any person whose activities produce waste or any person who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste.”

(3) Subsection (3) (presumption that anything discarded is waste unless the contrary is proved) shall cease to have effect.

(4) After subsection (9) there shall be added—

“(10) Schedule 2B to this Act (which reproduces Annex I to the Waste Directive) shall have effect.

(11) Subsection (2) above is substituted, and Schedule 2B to this Act is inserted, for the purpose of assigning to “waste” in this Part the meaning which it has in the Waste Directive by virtue of paragraphs (a) to (c) of Article 1 of, and Annex I to, that Directive, and those provisions shall be construed accordingly.

(12) In this section “the Waste Directive” means the [75/442/EEC] directive of the Council of the European Communities, dated 15th July 1975, on waste, as amended by—

(a) the [91/156/EEC] directive of that Council, dated 18th March 1991, amending directive 75/442/EEC on waste;² and

(b) the [91/692/EEC] directive of that Council, dated 23rd December 1991, standardising and rationalising reports on the implementation of certain Directives relating to the environment.

¹ In Northern Ireland transposition is by Article 2(2) of the Waste and Contaminated Land (Northern Ireland) Order 1997 (1997 No. 2998 (N.I. 19)).

² Now Directive 2006/12/EC.

D

Waste currently lower rated for landfill tax purposes

The following table describes wastes currently lower rated for the purpose of landfill tax.

Group	Description of Material	Conditions
Group 1	Rocks and soils	Naturally occurring
Group 2	Ceramic or concrete materials	
Group 3	Minerals	Process or prepared, not used
Group 4	Furnace slags	
Group 5	Ash	
Group 6	Low activity inorganic compounds	
Group 7	Calcium sulphate	Disposed of either at site not licensed to take putrescible waste or in containment cell which takes only calcium sulphate
Group 8	Calcium hydroxide and brine	Deposited in brine cavity
Group 9	Water	Containing other qualifying material in suspension

Notes

Group 1 includes clay, sand, gravel, sandstone, limestone, crushed stone, china clay, construction stone, stone from the demolition of buildings or structures, slate, topsoil, peat, silt and dredgings.

Group 2 comprises only the following–

- (a) glass;
- (b) ceramics;
- (c) concrete.

For these purposes–

- (a) glass includes fritted enamel, but excludes glass fibre and glass-reinforced plastic;
- (b) ceramics includes bricks, bricks and mortar, tiles, clay ware, pottery, china and refractories;
- (c) concrete includes reinforced concrete, concrete blocks, breeze blocks and aircrete blocks, but excludes concrete plant washings.

Group 3 comprises only the following–

- (a) moulding sands;
- (b) clays;
- (c) mineral absorbents;
- (d) man-made mineral fibres;
- (e) silica;
- (f) mica;
- (g) mineral abrasives;
- (h) used foundry sand (by extra-statutory concession).

For these purposes –

- (a) moulding sands excludes sands containing organic binders;
- (b) clays includes moulding clays and clay absorbents, including Fuller's earth and bentonite;
- (c) man-made mineral fibres includes glass fibres, but excludes glass-reinforced plastic and asbestos.

Group 4 includes–

- (a) vitrified wastes and residues from thermal processing of minerals where, in either case, the residue is both fused and insoluble;
- (b) slag from waste incineration.

Group 5–

- (a) comprises only bottom ash and fly ash from wood, coal or waste combustion; and
- (b) excludes fly ash from municipal, clinical and hazardous waste incinerators and sewage sludge incinerators.

Group 6 comprises only titanium dioxide, calcium carbonate, magnesium carbonate, magnesium oxide, magnesium hydroxide, iron oxide, ferric hydroxide, aluminium oxide, aluminium hydroxide and zirconium dioxide.

Group 7 includes gypsum and calcium sulphate based plasters, but excludes plasterboard.

E

Inert waste in European terms

Extract from Council Decision 2003/33/EC establishing criteria and procedures for the acceptance of waste at landfills

2.1.1. List of waste acceptable at landfills for inert waste without testing

Wastes on the following short list are assumed to fulfil the criteria as set out in the definition of inert waste in Article 2(e) of the Landfill Directive and the criteria listed in section 2.1.2. The wastes can be admitted without testing at a landfill site for inert waste.

The waste must be a single stream (only one source) of a single waste type. Different wastes contained in the list may be accepted together, provided they are from the same source.

In case of suspicion of contamination (either from visual inspection or from knowledge of the origin of the waste) testing should be applied or the waste refused. If the listed wastes are contaminated or contain other material or substances such as metals, asbestos, plastics, chemicals, etc to an extent which increases the risk associated with the waste sufficiently to justify their disposal in other classes of landfills, they may not be accepted in a landfill for inert waste.

If there is a doubt that the waste fulfils the definition of inert waste according to Article 2(e) of the Landfill Directive and the criteria listed in section 2.1.2 or about the lack of contamination of the waste, testing must be applied. For this purpose the methods listed under section 3 shall be used.

EWC code	Description	Restrictions
1011 03	Waste glass-based fibrous materials	Only without organic binders
1501 07	Glass packaging	
1701 01	Concrete	Selected C&D waste only(*)
1701 02	Bricks	Selected C&D waste only(*)
1701 03	Tiles and ceramics	Selected C&D waste only(*)
1701 07	Mixtures of concrete, bricks, tiles and ceramics	Selected C&D waste only(*)
1702 02	Glass	
1705 04	Soil and stones	Excluding topsoil, peat; excluding soil and stones from contaminated sites
1912 05	Glass	
2001 02	Glass	Separately collected glass only
2002 02	Soil and stones	Only from garden and parks waste; excluding topsoil, peat

(*) Selected construction and demolition waste (C&D waste): with low contents of other types of materials (like metal, plastic, soil, organics, wood, rubber, etc). The origin of the waste must be known.

- No C&D waste from constructions, polluted with inorganic or organic dangerous substances e.g. because of production processes in the construction, soil pollution, storage and usage of pesticides or other dangerous substances, etc., unless it is made clear that the demolished construction was not significantly polluted.
- No C&D waste from constructions, treated, covered or painted with materials, containing dangerous substances in significant amounts.

Waste not appearing on this list must be subject to testing as laid down in section 1 to determine if it fulfils the criteria for waste acceptable at landfills for inert waste as set out in section 2.1.2.

2.1.2. Limit values for waste acceptable at landfills for inert waste

2.1.2.1. Leaching limit values

The following leaching limit values apply for waste acceptable at landfills for inert waste, calculated at liquid to solid ratios (L/S) of 2 l/kg and 10 l/kg for total release and directly expressed in mg/l for C_0 (the first eluate of percolation test at L/S = 0,1 l/kg). Member States shall determine which of the test methods (see section 3) and corresponding limit values in the table should be used.

Component	L/S = 2 1/kg	L/S = 10 1/kg	C ₀ (percolation test)
	mg/kg dry substance	mg/kg dry substance	mg/l
As	0,1	0,5	0,06
Ba	7	20	4
Cd	0,03	0,04	0,02
Cr total	0,2	0,5	0,1
Cu	0,9	2	0,6
Hg	0,003	0,01	0,002
Mo	0,3	0,5	0,2
Ni	0,2	0,4	0,12
Pb	0,2	0,5	0,15
Sb	0,02	0,06	0,1
Se	0,06	0,1	0,04
Zn	2	4	1,2
Chloride	550	800	460
Fluoride	4	10	2,5
Sulphate	560(*)	1000(*)	1500
Phenol index	0,5	1	0,3
DOC(**)	240	500	160
TDS(***)	2500	4000	–

(*) If the waste does not meet these values for sulphate, it may still be considered as complying with the acceptance criteria if the leaching does not exceed either of the following values: 1 500mg/l as C₀ at L/S = 0,1 1/kg and 6 000 mg/kg at L/S = 10 1/kg. It will be necessary to use a percolation test to determine the limit value at L/S = 0,1 1/kg under initial equilibrium conditions, whereas the value at L/S = 10/ 1kg may be determined either by a batch leaching test or by a percolation test under conditions approaching local equilibrium.

(**) If the waste does not meet these values for DOC at its own pH value, it may alternatively be tested at L/S = 10 1/kg and a pH between 7,5 and 8,0. The waste may be considered as complying with the acceptance criteria for DOC, if the result of this determination does not exceed 500 mg/kg. (A draft method based on prEN 14429 is available).

(***) The values for total dissolved solids (TDS) can be used alternatively to the values for sulphate and chloride.

2.1.2.2. Limit values for total content of organic parameters

In addition to the leaching limit values under section 2.1.2.1, inert wastes must meet the following additional limit values:

Parameter	Value mg/ kg
TOC (total organic carbon)	30000(*)
BTEX (benzene, toluene, ethylbenzene and xylenes)	6
PCBs (polychlorinated biphenyls, 7 congeners)	1
Mineral oil (C10 to C40)	500
PAHs (polycyclic aromatic hydrocarbons)	Member States to set limit value

(*) In the case of soils, a higher limit value may be admitted by the competent authority, provided the DOC value of 500 mg/kg is achieved at L/S = 10 l/kg, either at the soil's own pH or at a pH value between 7,5 and 8,0.

3. Sampling and Test Methods

Sampling and testing for basic characterisation and compliance testing shall be carried out by independent and qualified persons and institutions. Laboratories shall have proven experience in waste testing and analysis and an efficient quality assurance system.

Member States may decide that:

- 1 the sampling may be carried out by producers of waste or operators under the condition that sufficient supervision of independent and qualified persons or institutions ensures that the objectives set out in this Decision are achieved;
- 2 the testing of the waste may be carried out by producers of waste or operators if they have set up an appropriate quality assurance system including periodic independent checking.

As long as a CEN standard is not available as formal EN, Member States will use either national standards or procedures or the draft CEN standard, when it has reached the prEN stage.

Sampling

For the sampling of waste – for basic characterisation, compliance testing and on-site verification testing – a sampling plan shall be developed according to part 1 of the sampling standard currently developed by CEN.

General waste properties	
EN 13137	Determination of TOC in waste, sludge and sediments
PrEN 14346	Calculation of dry matter by determination of dry residue or water content
Leaching tests	
PrEN 14405	Leaching behaviour test – Up-flow percolation test (Up-flow percolation test for inorganic constituents)
EN 12457/1-4	Leaching – Compliance test for leaching of granular waste materials and sludges: part 1: L/S = 2 l/kg, particle size < 4mm part 2: L/S = 10 l/kg, particle size < 4mm part 3: L/S = 2 and 8 l/kg, particle size < 4mm part 4: L/S = 10 l/kg, particle size < 10mm
Digestion of raw waste	
EN 13657	Digestion for subsequent determination of aqua regia soluble portion of elements (partial digestion of the solid waste prior to elementary analysis, leaving the silicate matrix intact)
EN 13656	Microwave-assisted digestion with hydrofluoric (HF), nitric (HNO ₃) and hydrochloric (HCl) acid mixture for subsequent determination of elements (total digestion of the solid waste prior to elementary analysis)
Analysis	
ENV 12506	Analysis of eluates – Determination of pH, As, Ba, Cd, Cl, Co, Cr, CrVI, Cu, Mo, Ni, NO ₂ , Pb, total S, SO ₄ , V and Zn (analysis of inorganic constituents of solid waste and/or its eluate; major, minor and trace elements)
ENV 13370	Analysis of eluates – Determination of ammonium, AOX, conductivity, Hg, phenol index, TOC, easily liberatable CN, F (analysis of inorganic constituents of solid waste and/or its eluate (anions))
prEN 14039	Determination of hydrocarbon content in the range of C10 to C40 by gas chromatography

This list will be amended when more CEN standards are available.

For tests and analyses, for which CEN methods are not (yet) available, the methods used must be approved by the competent authorities.

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