

FINANCE ACT 2014

EXPLANATORY NOTES

INTRODUCTION

Section 95: Aggregates Levy: Power to Restore Exemptions

Summary

1. This section provides for secondary legislation to be introduced to enable the Treasury to restore certain exemptions, exclusions and reliefs ('exemptions') from the aggregates levy which are being suspended from 1 April 2014 under a separate section in Finance Act 2014. It provides that this restoration can be introduced with effect from a date earlier than the secondary legislation is made.

Details of the Section

2. Subsection (1) provides that the Treasury may introduce an Order to restore any of the exemptions removed by the section in Finance Act 2014 dealing with the removal of certain aggregates levy exemptions.
3. Subsection (2) provides that any restoration of an exemption introduced under the Order may apply in relation to commercial exploitation of aggregates taking place on a date earlier than the Order is made. It also provides that the Order may include transitional provisions as the Treasury deem fit.
4. Subsection (4) provides that any Order made under this section will be subject to the negative procedure of the House of Commons.

Background Note

5. Aggregates levy is a tax on the commercial exploitation of rock, sand and gravel in the UK. It was introduced on 1 April 2002.
6. On 7 March 2012 the European General Court annulled a 2002 decision by the European Commission not to raise objections against the aggregates levy. As a result of that judgment, the Commission carried out a preliminary assessment of the levy in order to determine whether to raise objections against the tax on the grounds that it potentially gave rise to State aid. On 31 July 2013 the Commission notified its decision to open a formal State aid investigation which would examine whether certain exemptions from the levy are in line with the logic and nature of the tax.
7. As part of the formal investigation process, the government is providing information to the Commission to support its view that the exemptions are not State aid. However, while this process continues, the government is obliged to suspend the exemptions in question under Article 108(3) of the Treaty on the Functioning of the European Union.
8. This legislation provides for secondary legislation to restore any suspended exemption and for this restoration to take effect earlier than the date the secondary legislation is made. This will mean that tax paid as a result of the suspension of an exemption can be repaid to the person who accounted for it following the conclusion of the Commission's investigation, should the terms of the Commission's final decision allow.

*These notes refer to the Finance Act 2014 (c.26)
which received Royal Assent on 17 July 2014*

HM Revenue and Customs would need to be satisfied that the taxpayer would not be unjustly enriched as a result of receiving the repayment. Businesses may therefore decide to keep records to demonstrate that they would not gain financially from this repayment; for example, by including a commitment in contracts to repay any amounts charged to their customers to cover all or part of the cost of the levy in the event that the taxpayer is repaid the tax.