

LANDFILL DISPOSALS TAX (WALES) ACT 2017

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Taxable Disposals Made at Authorised Landfill Sites

Chapter 2 – Tax Chargeable on Taxable Disposals

Qualifying materials and qualifying mixtures of materials

Section 16 – Qualifying mixtures of materials

34. This section sets out the tests that a mixture of materials must meet in order to qualify for the lower rate of LDT. Requirements 1-6 apply to all qualifying mixtures and requirement 7 provides for the possibility of there being additional requirements to be met when the mixture is made up of fines.
35. It should be noted that requirement 1 provides that the load must be made up of one or more qualifying materials and only a small amount of non-qualifying material which is incidental to the qualifying material. Subsection (2) sets out matters that must be taken into account in determining whether an amount of non-qualifying material is a small amount and whether it is incidental to the qualifying materials.
36. Requirement 3 states that the non-qualifying material must not have been mixed with the qualifying materials deliberately for the purposes of disposal or matters preparatory to disposal: for example, for transportation. This test will, for example, distinguish between a case where there are fragments of non-qualifying material attached to qualifying material because the complete removal of it was not possible and a case where a non-qualifying material has been separately and deliberately added to the load. The latter would not satisfy requirement 3.
37. Requirement 4 allows for the Welsh Ministers to prescribe in regulations any materials which must not be included in a qualifying mixture of materials. If such regulations were made, the standard rate of tax (as defined in section 14) would apply to any mixture of materials containing prescribed material, regardless of whether the amount of prescribed material was small and incidental to the other material.
38. Requirement 6 states that no arrangements (this includes any actions or operations) should be made in respect of the mixture, that have, as the main purpose, or as one of the main purposes, the avoidance of tax liability. Such arrangements might include, for example, the blending of a mixture in a way that allows its composition to be disguised, such as deliberately crushing up or hiding standard rate material within a load of qualifying material so as to reduce the likelihood of it appearing to have more than a small and incidental amount of such material present in the load.