

## POLICY NOTE

### THE SCOTTISH LANDFILL TAX (QUALIFYING MATERIAL) ORDER 2015

#### SSI 2015 No. 45

The instrument above was made in exercise of the powers conferred by sections 13(4) and 14(7) of the Landfill Tax (Scotland) Act 2014 (LT(S)A 2014). The making of this order is subject to the provisional affirmative procedure.

#### Policy Objectives

The LT(S)A 2014 provides for a Scottish Landfill Tax (SLfT) which will take effect from 1 April 2015. Section 13(4) and 14(7) of the LT(S)A 2014 provide a power to allow the materials qualifying for a lower rate of tax to be defined, by way of a list. To satisfy section 13(7) of the LT(S)A 2014, the criteria which Ministers have to consider when considering the list of qualifying material can be found on the Scottish Government [website](#)<sup>1</sup>.

Scottish Landfill Tax will be chargeable by weight and there will be two rates provided for in the Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2015:

- a standard rate that applies to taxable waste disposals; and
- a lower rate that applies to less polluting (or damaging) wastes listed in this order (sometimes referred to as ‘inert’ wastes).

Therefore this instrument sets out material that qualifies at the lower rate and the qualifying conditions that have to be met. The lower rate of tax recognises that there is a relatively low level of environmental impact associated with the landfilling of wastes which are less active or polluting in the landfill environment. These wastes do not biodegrade, they do not produce landfill gas and there is a low risk of pollution to groundwater or surface water. Landfill sites handling this material can be subject to a much shorter period of aftercare and be returned more readily to other productive uses.

The Scottish Government has provided for a two rate system, similar to that for UK Landfill Tax. Scottish Ministers have the power to vary the material qualifying for the lower rate in the future or create additional rates. However to ensure consistency and to aid the implementation of SLfT for landfill operators (and the wider waste and secondary resource industry) at the outset, the SLfT list of qualifying material largely replicates the equivalent UK order. This order will be reviewed during the first year of the tax with further engagement with industry once SLfT is established. Ministers will then consider whether certain materials could be subject to different rates of tax and if loss on ignition testing for waste fines (particles produced by a waste treatment

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<http://www.scotland.gov.uk/Topics/Government/Finance/scottishapproach/landfilltax/qualifyingmaterialorders>

process that involves an element of mechanical treatment) should be added as an additional group in the order.

## **Consultation**

*Scottish Landfill Tax – A Consultation on Subordinate Legislation*<sup>2</sup> was published in June 2014 and sought views on a range of issues covered in draft secondary legislation. The consultation closed on 31 July 2014 and analysis<sup>3</sup> was conducted and published by Zero Waste Scotland on behalf of the Scottish Government.

The consultation asked, “are there any refinements to the list of materials qualifying for the lower tax rate that should be considered for implementing the tax in Scotland?”

Most respondents requested that proposals for loss on ignition test rules should be subject to public consultation so that the issue can be discussed in detail. This was the most common issue raised by respondents to the question with 39% respondents mentioning it. Some respondents noted that in future, the list of qualifying materials should broadly remain the same as the list for UK Landfill Tax to avoid cross border movement of waste.

Revenue Scotland will make arrangements for loss on ignition testing for Groups 1 and 2 of the schedule, for fine material produced through the process of screening waste, in the guidance that will accompany the tax at [www.revenue.scot](http://www.revenue.scot). During the first year of the tax’s operation, the Scottish Government will consult on whether to make such testing compulsory through legislation.

This issue of “waste tourism” (cross border movement of waste) was also raised through the consultation and continues to evoke concerns. Many respondents felt that for the tax’s introduction, it is important that the definition of qualifying materials and landfill tax rates should be consistent across administrative boundaries within the UK to provide a consistent, stable regime for landfill operators, waste producers and the wider waste and secondary resource sector that operate within the four UK administrative boundaries.

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<sup>2</sup> ‘Scottish Landfill Tax, A Consultation on Subordinate Legislation’, published 16 May 2014, available at: <http://www.scotland.gov.uk/Resource/0045/00450678.pdf>

<sup>3</sup> ‘Responses to the Public Consultation on Proposed Landfill Tax Subordinate Legislation’, published October 2014 available at: [www.zerowastescotland.org.uk/PublicConsultation/ProposedLandfillTaxSubordinate/Responses](http://www.zerowastescotland.org.uk/PublicConsultation/ProposedLandfillTaxSubordinate/Responses)

## Impact Assessments

A Business and Regulatory Impact Assessment (“BRIA”)<sup>4</sup> has been published for the regulations and orders associated with LT(S)A 2014. As the Scottish Government’s approach to these provisions broadly mirrors the already existing UK approach to landfill tax, no significant financial effect or impact on the private, voluntary or public sector is anticipated.

An Equality Impact Assessment (“EQIA”)<sup>5</sup> has been published and there are no equality impacts or issues associated with this SSI. A strategic environmental screening exercise has been conducted and the statutory instrument will have no negative impact on the environment<sup>6</sup>.

Scottish Government  
Finance Directorate  
Fiscal Responsibility Division

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<sup>4</sup> ‘Scottish Landfill Tax Final Business and Regulatory Impact Assessment’, published 14 December 2014, available at: <http://www.scotland.gov.uk/Publications/2014/12/6274>

<sup>5</sup> ‘Scottish Landfill Tax – Equality Impact Assessment Results’, published 17 December 2014, available at: <http://www.scotland.gov.uk/Publications/2014/12/7976>

<sup>6</sup> Scottish Environmental Screening Exercise results available at: <http://www.scotland.gov.uk/Topics/Environment/environmental-assessment/sea/SEAG>