

## **Waste Consultations and Landfill tax changes**

### **Purpose of Report**

The purpose of this report is twofold - to provide an overview of waste related consultations and an update on the recent changes to Landfill Tax by Her Majesty's Revenue and Customs.

### **Summary**

A number of consultations are planned by the government and the EU over the coming months on the full range of waste related issues with many coming up at the end of 2012 / start of 2013.

Her Majesty's Revenue and Customs recently announced changes to Landfill tax rates for certain materials from recycling facilities, which could have impacts for local authorities.

### **Recommendation**

That members note the report.

### **Action**

As directed by members.

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## 1. Waste Consultations

### Background

1. There are a number of consultations planned by government and the EU on waste related matters over the coming months.

### Consultations table

2. The table below provides the information that we have about upcoming consultations on waste related issues.

Theme	Subject of consultation	Dept	Date
<b>UK</b>			
Waste crime	Duty of Care and Waste Transfer Notes (picking up the Red tape Challenge proposals)	DEFRA	End 2012/ start of 2013
	Harm to local amenity test (following announcement on this course being pursued)	DEFRA	tbc
Producer compliance	Material Recycling Facility (MRF) Permitting Regulations (to make the MRF Code of Practice mandatory)	DEFRA	August/ September 2012
	Battery Compliance schemes (picking up the Red tape Challenge proposals)	BIS	End 2012/ start of 2013
	Waste Electrical and Electronic Equipment (Red Tape Challenge revisions and transposition of EU recast WEEE Directive)	BIS	End 2012/ start of 2013
	Packaging Regulations (picking up the Red tape Challenge proposals and overall review)	DEFRA	End 2012/ start of 2013
Waste Regulations	Statutory guidance on implementation (following amendment of regulations post Judicial Review)	DEFRA	Autumn/ Winter 2012
	Joint Municipal Waste Management Strategies (removal of statutory duty)	DEFRA	tbc
Planning Policy for Waste	National Waste Management Plan and Annex on Waste Planning Policy	DEFRA and DCLG	End 2012/ start of 2013
<b>EU</b>			
Waste Directives	Green Paper on Plastic Waste (will feed into the review of Waste Directives with potential for reduction targets for plastic to landfill)	EU Commission	Autumn 2012
	'Fitness check' on EU Waste Directives (will feed into the review of Waste Directives planned by 2014 by the EU Commission)	EU Commission	2013

## 2. HMRC changes to landfill tax

### Background

3. On 18 May Her Majesty's Revenue and Customs announced a change to the rate of landfill tax for material including rubble and soil, grit, demolition of buildings material, waste facilities residues and other materials used to cover over landfill sites. This material is considered inert i.e. it will not contaminate landfill through degrading and producing methane and does not count towards the EU biodegradable landfill targets.
4. For local authorities this will relate to the residues (or fines) from waste facilities as well as rubble and soil collected at household waste and recycling centres. The treat of an increase in landfill tax for rubble and other material collected by skip operators led to a recent demonstration in parliament square.
5. HMRC issued an order in March 2011 which contained a list of inert materials that are exempt from the full landfill tax rate in 2011. This followed a court ruling in 2008 that landfill tax had been overcharged in some cases, leading to claims for repayment by operators. The announcement on 18 May unexpectedly ups the ante by threatening action against those landfill operators not paying the full tax for non listed materials.
6. Up to now this material attracted a lower rate of landfill tax of £2.50 and there are fears that this change could increase the tax to £64 per tonne across all materials with immediate effect.

### Impacts

7. If the changes are implemented as reported there are two potential impacts for local authorities of these changes:
  - 7.1. **Increased flytipping** due to increased costs for disposal of these materials that is passed on to customers.
  - 7.2. Local authorities will be subject to the **increased costs** for disposal of the waste they or their waste contractors are producing. This includes material such as soil and rubble at household waste and recycling centres as well as residues from their waste facilities.

### Latest developments

8. HMRC have issued a clarification that re-states the listed materials that are subject to the lower rate, which includes many of the materials from waste facilities. The clarification states that if the necessary evidence (documented in

25 June 2012

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Waste Transfer Notes) is produced that establishes a material is included in the list then it will only be subject to the lower rate.

9. A potential consequence of this clarification is that waste managers may be required to carry out more accurate recording of information about different materials and their origin. Also that material eligible for lower rates is kept separate from other non listed material. In cases where these materials are mixed the full landfill tax rate will apply. HMRC have agreed to work with the waste industry to demonstrate how these materials can qualify for the lower landfill tax rate.
10. A further issue of guidance has been promised to clarify the situation, although the timing for this is not clear and has been stated as 'in due course'.

**Next steps**

11. Officers to monitor the situation and liaise with the National Association of Disposal Officers and Environmental Services Association in order to further determine impacts and liabilities for local authorities.
12. If these changes result in additional unforeseen costs to councils officers will seek to lobby of government for revision or compensation.