



**Friends of
the Earth**

Modernising landfill tax legislation

**Response from Friends of the
Earth**

July 2009

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Friends of the Earth

26-28 Underwood Street, London N1 7JQ

Tel: 020 7490 1555 Fax: 020 7490 0881

Website: www.foe.co.uk

Friends of the Earth Limited, company number 1012357

Written by: Becky Slater and Michael Warhurst

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Introduction

Friends of the Earth welcomes this opportunity to comment on the Government's proposals for revisions to landfill tax.

We believe that waste policy should be aiming to improve the UK's resource efficiency, and minimise our climate impacts, by maximising prevention, reuse, recycling and composting, and by gradually phasing out residual waste.

We believe that taxation has an important role to play in the move towards phasing out residual waste, and consider that two important changes are needed to improve incentives in this area:

- The landfill tax needs to be expanded into a general disposal tax, also covering incineration. This will help ensure that materials are recycled whenever possible.
- The landfill tax needs to become slightly more nuanced, so that it rewards those who make the effort to remove recyclables and biological activity prior to disposal. This would require a lower rate of landfill tax for waste that has been adequately stabilised through an MBT process. This would have a significant impact upon the financial viability of MBT technologies in the UK. This is supported by the detailed studies produced by Eunomia consultants examining the environmental and economic justification for such a change [1]. Since the landfill tax is concerned with addressing the environmental impacts associated with waste going to landfill, a lower rate of tax for stabilised waste would allow the tax to better reflect the minimised environmental impact associated with this waste.

Response to questions

Chapter 2 - What constitutes a taxable disposal

Question 1:

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

Friends of the Earth is not responding to this question in this consultation.

Question 2:

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

Friends of the Earth is not responding to this question in this consultation.

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?

Friends of the Earth is not responding to this question in this consultation.

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?

Friends of the Earth is not responding to this question in this consultation.

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?

Friends of the Earth is not responding to this question in this consultation.

Question 6:

Are there any other approaches to defining taxable activities?

Friends of the Earth is not responding to this question in this consultation.

Question 7:

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

Friends of the Earth is not responding to this question in this consultation.

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?

Friends of the Earth is not responding to this question in this consultation.

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)?

Friends of the Earth is not responding to this question in this consultation.

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?

Friends of the Earth is not responding to this question in this consultation.

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)?

Friends of the Earth is not responding to this question in this consultation.

Question 12:

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

Friends of the Earth is not responding to this question in this consultation.

Question 13:

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

Friends of the Earth is not responding to this question in this consultation.

Question 14:

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

Friends of the Earth is not responding to this question in this consultation.

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?

Friends of the Earth is not responding to this question in this consultation.

Question 16:

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

Friends of the Earth is not responding to this question in this consultation.

Chapter 3 - Wastes that qualify for the lower rate of tax

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?

Incinerator bottom ash (IBA) is being produced in increasing quantities in the UK, as the amount of waste incinerated is increasing. The current lower tax rate on IBA provides incineration with a large effective subsidy. IBA is not an inert waste so it is correct that it should not benefit from a lower rate of taxation.

Therefore we support the “Lead Option” which would include only waste defined as ‘inert’ under the landfill directive in the lower tax rate.

Question 18:

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

We have not gathered information on this issue.

Question 19:

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

We have not gathered information on this issue.

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.

The increase in tax on incineration bottom ash would benefit the recycling industry, by increasing the gate fee of incineration relative to recycling. This would also have environmental benefits by reducing the amount of recyclables wasted by being burnt.

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?

In the case of incinerator bottom ash, in Friends of the Earth’s view is that it should not be being recycled, so we would wish it to continue to be landfilled, at an increased cost.

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?

There are strong environmental arguments for introducing additional criteria for lower rating waste, and such changes would support the environmental objectives of the tax.

We believe a lower rate of tax should reward those who seek to remove recyclables from, and 'biostabilise', waste, using mechanical biological treatment (MBT) technologies, prior to it being sent to landfill. This type of technology has substantial environmental benefits as it diverts more material into recycling (including plastics), and prevents the emission of significant quantities of methane.

Looked at from an economic point of view, this treatment reduces the externalities associated with landfilling. Modelling by Eunomia demonstrates that there is a significant difference between the externalities of landfilling untreated wastes compared to those from landfilling 'biostabilised' wastes. When in landfill, biostabilised wastes can have a similar propensity to emit the harmful greenhouse gas (GHG), methane, as topsoil [1]. However, topsoil qualifies for the inert rate of tax.

The reduced environmental impact of this waste is already recognised by the accounting mechanisms used to assess local authority performance under the Landfill Allowance Schemes (LAS). A lower rate for bio-stabilised waste would therefore fit harmoniously with the existing systems for Landfill Allowance (Trading) Schemes. The Environment Agency has developed tests for measuring the biological activity of such wastes, which would be available in order to distinguish between low and high tax materials. The requirements for lower tax could also include an assurance that material had gone through a process with audited performance standards in removing recyclables and reducing biological activity.

Note that Friends of the Earth is not advocating that this pretreated waste should be taxed as inert material; in our view the best option would be a landfill tax rate that is closer to the inert rate than to the full rate. It is also not clear that there would be significant environmental benefit to placing an escalator on this tax, as long as the regulatory definition of pre-treatment is stringent.

The key environmental and economic arguments for such a tax, and the encouragement it will give to proper pretreatment of waste before landfill, are as follows:

- We need to cut climate emissions as fast as possible. MBT pretreatment to remove recyclables and biological activity can be implemented rapidly, at much lower cost than alternative residual waste technologies. This will give immediate climate benefits in terms of (i) reduced methane from landfills; and (ii) increased recycling
- Without a fiscal pressure to pre-treat waste prior to landfill, we will continue to landfill substantial quantities of economically important materials such as aluminium and plastic. This is particularly true for commercial and industrial waste, but also for waste streams that are difficult to collect separately, such as street bins and sweepings.
- Due to the low cost and flexibility of some MBT pre-treatments, the technology is much better than other such as incineration in allowing a flexible response to reducing residual waste volumes and change in waste composition. In contrast, expensive and inflexible incinerators will demand a constant stream of residual waste, which will lead to materials being burnt that should be recycled. This is both environmentally undesirable and a waste of public money.
- Increasing the financial viability of MBT pre-treatments will also assist the UK in reaching its landfill directive targets at least cost [1]

However, even with a revised landfill tax system that we are suggesting, there will still be a real danger that the escalating landfill tax will drive local authorities to divert waste from landfill to the next stage up the hierarchy, incineration, rather than to environmentally more beneficial recycling and composting/digestion.

Therefore, Friends of the Earth would welcome the introduction of an incineration tax to ensure that the relative cost of recycling reflects its environmental desirability and so discourage the diversion of waste from landfill to incineration. Work carried out for the Treasury in the past has shown that the environmental damage from incineration is higher than for landfill, and that an incineration tax is justified in environmental and social terms [2].

Such a tax is used in other parts of Europe, including Denmark, Austria, Netherlands, Norway, Sweden and Flanders, Belgium. A tax on incineration would provide a crucial driver for commercial & industrial (C&I) and other non-municipal waste, by affecting the behaviour of the private sector. With the landfill tax escalator, C&I waste is going to be increasingly diverted from landfill to incineration, rather than to recycling. Many proposals for incinerators are relying on C&I waste to meet any shortfall in MSW available, so are likely to be setting a price per tonne that is competitive with recycling. An incineration tax is required to prevent this diversion from recycling to incineration.

Lower rate transitional arrangements

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?

We do not believe that there is a need for a transitional arrangement.

Alternative approach

Question 24:

What are the benefits and disadvantages of a transitional rate?

We do not believe that a transitional rate is needed. If another rate is to be put in place then it should be a lower rate for truly pretreated waste.

Question 25:

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

Friends of the Earth is not responding to this question in this consultation.

Question 26:

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

Friends of the Earth is not responding to this question in this consultation.

References

- 1 “*‘Biostabilisation’ of wastes: making the case for a differential rate of landfill tax*”, Eunomia Research and Consulting (2008), www.eunomia.co.uk/shopimages/Eunomia%20Landfill%20Tax%20Paper%20Final.pdf
“*Impact Assessment of the Landfill Tax Escalator*”, Eunomia Research and Consulting (2008), <http://www.eunomia.co.uk/shopimages/Eunomia%20-%20LFT%20Impact%20Assessment%20Final.pdf>
2. "Combining the Government's Two Heath and Environment Studies to Calculate Estimates for the External Costs of Landfill and Incineration", HM Customs & Excise, 2004.