
LANDFILL TAX: CRITERIA FOR DETERMINING MATERIAL TO BE SUBJECT TO THE LOWER RATE

Who is likely to be affected?

1. Businesses registered for landfill tax.

General description of the measure

2. This measure will provide:
 - for the publication and review of criteria for determining the lower rate of landfill tax; and
 - that HM Treasury will have regard to these criteria when listing in an Order the materials that qualify for the lower rate.
3. The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess.

Operative date

4. The measure will have effect on and after the date that the legislation receives Royal Assent. The current Treasury Order listing lower rated wastes is not affected by the changes as long as disposals are made, or treated as made, before 1 April 2011.
5. Any changes required to the current Treasury Order as a result of the new primary legislation would come into force on 1 April 2011.

Current law and proposed revisions

6. Under the current rules in section 42(4) of the Finance Act 1996, HM Treasury must have regard to whether material being landfilled is commonly described as inactive or inert when deciding whether or not to include it in an Order that lists the materials that qualify for the lower rate of tax. The Landfill Tax (Qualifying Material) Order 1996 lists the qualifying wastes.

7. The measure will replace section 42(4) with new provisions that specify that the Commissioners for Her Majesty's Revenue and Customs must publish the criteria that HM Treasury will have regard to when determining what material is lower rated, and will publish revised criteria when necessary. HM Treasury will take account of these criteria when listing in an Order the materials that qualify for the lower rate of tax, for any disposals made, or treated as made, on or after 1 April 2011.
8. Any amendments to the current Landfill Tax (Qualifying Material) Order 1996 needed as a result of changes to primary legislation would be introduced in a new Treasury Order.

Further advice

9. This measure was previously announced at Budget 2010 and a version of this note was published as BN54. This note supersedes that version.
10. If you have any questions about these changes, please contact the Excise and Customs Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk