Scotland update – A consultation on Revenue Scotland guidance for Scottish landfill tax

Indirect Tax

01 September 2016

The CIOT responded to a Revenue Scotland consultation on guidance for Scottish landfill tax (SLfT) on how to determine the rate for waste fines. The legislation takes effect on 1 October – this sets out the conditions that must be met for the fines to qualify for the lower rate of SLfT. Revenue Scotland is updating its guidance to take account of the legislative changes.

The Scottish Landfill Tax (Qualifying Material) Order 2016 will take effect on 1 October 2016 and Revenue Scotland is updating its guidance to take account of the changes. The department consulted on the draft guidance in July 2016, with the aim of publishing the final version by 15 August 2016. This is intended to replace that at SLfT2006 in the *SLfT Legislation Guidance*.

The guidance explains the treatment of waste that consists of materials that, but for a small amount of non-qualifying material, qualify for the lower rate of SLfT (£2.65 a tonne). It also explains how to determine whether waste fines qualify for the lower rate. If waste does not qualify for this, the standard rate of £84.40 a tonne applies. The significant difference in the two rates mean that certainty in applying the rates is of paramount importance to landfill site operators.

Waste fines are fractions of material produced by a waste treatment process that involves an element of mechanical treatment. To qualify for the lower rate of SLfT, waste fines must meet several tests. From 1 October 2016 (under the new Order) there will be a legislative requirement for a loss on ignition (LoI) test to be carried out to determine the organic content of the material. However, it should be noted that, just because a particular load of waste fines meets the LoI test, the waste fines

do not qualify automatically for the lower rate – the other tests, such as a visible inspection, need to be met too.

Revenue Scotland's amended guidance therefore aims to provide clarity and certainty on how to determine the correct rate of SLfT and on how to carry out LoI tests.

The CIOT responded to the consultation with the aim of improving the clarity of the guidance. It also participated in a session of the SLfT Forum during the consultation in order to inform its comments.

The CIOT noted a few places where the guidance could be improved by simple changes, such as the use of bullet points, to make lists clearer.

We also pointed out that the first section of the guidance could be made clearer in respect of fines for waste containing a small amount of non-qualifying material; as it stands, it seems to jump into a discussion of different treatment processes, when a summary of the various qualifying conditions is needed first.

The CIOT response notes that the new flowchart seems to be easier to follow than the one in the current guidance, but the section on supporting evidence would benefit from the use of bullet points and an explanation of what is meant by 'sufficient' evidence.

At first glance, the Frequency of Testing Table provides certainty on how often site operators need to carry out LoI tests on particular waste streams. But the use of some subjective indicators of risk introduces uncertainty and the possibility of inconsistency, unless there is an established method of interpreting the indicators.

The CIOT suggests trying to introduce some objectivity, by perhaps including numerical or measurable requirements.

It is to be hoped that, despite the relatively short timeframe, Revenue Scotland will be able to take on board comments on the draft guidance to provide certainty for landfill site operators so that the new regime operates consistently.

Read the CIOT response on the CIOT website.

The Scottish Technical Sub-Committee needs you!

The CIOT’s Scottish technical sub-committee (STC) is one of several that engage with and make representations to government. The remit of the STC covers taxes devolved to Scotland, including the land and buildings transaction tax and Scottish landfill tax, as well as those due to be devolved in the future, such as air passenger duty. We are also concerned with the Scottish rate of income tax, the devolution of income tax rates and bands, and the local taxes (council tax and non-domestic rates), which have been devolved for some time.

Given the range, we are keen to hear from members who wish to become involved in our work. Find out more at here or email scottech@ciot.org.uk.