



Llywodraeth Cymru  
Welsh Government

Simon Thomas AM  
Chair  
Finance Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

4 January 2016

Dear Simon,

At the Finance Committee's Stage 1 scrutiny of the Landfill Disposals Tax (Wales) Bill, I committed to provide further information in relation to:

- 1) Details of the list of materials currently on the Landfill Tax (Qualifying Material) Order 2011;
- 2) The amount/share of landfill tax (LFT) currently being paid by local authorities here in Wales; and
- 3) The application of the relief at section 31 to refilling former open cast mines.

### **Landfill Tax (Qualifying Material) Order 2011**

The list of qualifying materials (and any conditions) will be set in regulations which will be subject to the affirmative procedure. The specification of qualifying materials by secondary legislation is consistent with the position in UK and Scotland. The UK position is set out in the Landfill Tax (Qualifying Material) Order 2011 and is available at: <http://www.legislation.gov.uk/ukxi/2011/1017/contents/made>. The Scottish position is set out in the Scottish Landfill Tax (Qualifying Material) Order 2015 and is available at: <http://www.legislation.gov.uk/ssi/2015/45/made>.

### **Amount/share of LFT paid by local authorities in Wales**

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

From 2002-03 to 2015-16, there has been an 81% reduction in waste sent to landfill by local authorities in Wales; a reduction from 1,546,847 to 288,820 tonnes. We do not have any information on the split between standard and lower rate waste. However, if we assume that all local authority waste is standard rate (as local authorities are likely to have exhausted most other waste treatment options before sending it to landfill, due to the high cost), this would mean that over the last five years, where we have seen significant reduction in waste going to landfill, the landfill tax revenues from local authority waste would have gone down from £39.8m to £23.9m (2011-12 to 2015-16) if all the waste was sent to landfill in Wales.

We do not have any precise figures in relation to the proportion of LfT being paid by local authorities in Wales, however, based on the assumptions above and the data from HMRC and the Office for Budget Responsibility<sup>1</sup> on the amounts of LfT, we can estimate that the share of LfT being paid by local authorities in Wales has dropped from around 80-90% at the beginning of this decade to around 60-70% now.

	Tonnes sent to landfill by local authorities
2002-03	1,546,847
2003-04	1,497,156
2004-05	1,509,338
2005-06	1,389,029
2006-07	1,259,233
2007-08	1,165,155
2008-09	1,034,507
2009-10	931,428
2010-11	826,416
2011-12	710,361
2012-13	640,904
2013-14	587,390
2014-15	453,497
2015-16	288,820

Source: WasteDataFlow<sup>2</sup>

### **Relief from tax – Refilling former quarries**

The Committee has also asked for further information regarding the application of the relief at section 31 to refilling former open cast mines. I am in the process of considering this issue and will provide an update to the Committee ahead of my next appearance at Finance Committee to discuss the Bill on 2 February.

In addition, I thought it may be helpful to clarify the technical points which were discussed in relation to the WRA delegation for enforcement and compliance.

### **Welsh Revenue Authority (WRA) Delegated functions to Natural Resources Wales (NRW)**

<sup>1</sup>Devolved Tax Forecast, Office for Budget Responsibility -

<http://budgetresponsibility.org.uk/topics/scotland-wales-and-northern-ireland/welsh-tax-forecasts/>

<sup>2</sup> <https://statswales.gov.wales/Catalogue/Environment-and-Countryside/Waste-Management/Local-Authority-Municipal-Waste/Annual>

Under section 12 of the Tax Collection and Management Act 2016 (TCMA), WRA will be legally responsible for the collection and management of devolved taxes, including landfill disposals tax. WRA may, under section 14 TCMA, delegate any of its functions to a person prescribed in regulations made by the Welsh Ministers. I have identified NRW as the preferred delegated partner for delivery of WRA's compliance and enforcement functions in relation to landfill disposals tax. NRW have the requisite skills, expertise and direct site-based relationships with landfill site operators to undertake cost-effective and efficient compliance activity.

The Welsh Ministers will bring forward secondary legislation under section 14 TCMA in the next 9-12 months to enable WRA to delegate functions to NRW. WRA must subsequently publish information about any delegations it has made. We would expect the detail of the scale and scope of this delegation to be set out in this publication, and would expect it to be clear and transparent. The delegation of functions to NRW does not affect WRA's legal responsibility for the exercise of those functions.

Finally, I would also like to draw your attention to the changes announced by HMRC in their draft Finance Bill 2017, published on 5 December. Clause 47 of those draft provisions amends Part 3 of the Finance Act 1996, which relates to landfill tax. The detail of their proposals will be set out in secondary legislation which is yet to be published. It is possible HMRC may make changes to the UK landfill tax legislation which would be relevant to landfill site operators in Wales. I have written to the Financial Secretary to the Treasury and enclose a copy of that letter for your information. I will share my analysis with the Committee once HMRC has published its secondary legislation setting out the detail.

**Yours sincerely**



**Mark Drakeford AM/AC**

Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol  
Cabinet Secretary for Finance and Local Government

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14 December 2016

Dear Jane,

### Changes to landfill tax introduced by the Finance Bill 2017

The Landfill Disposals Tax (Wales) Bill was introduced into the National Assembly on 28 November; it is introduced as a consequence of the UK Government's Wales Act 2014, devolving specific taxes to Wales including landfill tax. This Bill will introduce landfill disposals tax (LDT) in Wales from April 2018 and is largely consistent with the current approach to landfill tax in the UK, though it addresses the key areas under the current UK framework which have given rise to litigation.

I have seen the draft provisions for the Finance Bill 2017, published on 5 December 2016. Clause 47 of those draft provisions amends Part 3 of the Finance Act 1996, which relates to landfill tax. I understand that the detail of the proposals will be contained within secondary legislation which is yet to be published. It is clear, however, that the draft provisions contained within clause 47 will alter the basis on which landfill tax is imposed, by removing the test of whether a landfill site operator intends to discard of material as waste, and by introducing a presumption of liability to tax, unless there is an exemption (to be set out in regulations).

The transition from the existing UK landfill tax to LDT in April 2018 will in all cases create some changes for landfill site operators, and we are working with HMRC to manage the impact of this. I am concerned that your introduction of an additional change to the tax prior to April 2018 will create an additional administrative burden and level of complexity for Welsh landfill site operators.

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I am disappointed that the Summary of Impacts makes no reference to the devolution timetable and the impact on operators in Wales of potentially having to administer three different tax regimes in a period of less than six months.

The answer seems relatively simple; to agree to delay the introduction of this change until after April 2018.

All best wishes,

Mark.

**Mark Drakeford AM/AC**

Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol  
Cabinet Secretary for Finance and Local Government