

Consultation on the Landfill Disposals Tax (Wales) Bill

The Chartered Institution of Wastes Management (CIWM) is the professional body which represents over 6,000 waste and resources management professionals, predominantly in the UK but also overseas. The CIWM sets the professional standards for individuals working in the waste and resources management industry and has various grades of membership determined by education, qualification and experience.

CIWM is recognised as the foremost professional body representing the complete spectrum of the waste and resources management industry. This gives the Institution the widest possible view and, perhaps more pertinently, an objective rather than partial view, given that our goal is for improvement in the management of all wastes and resources.

The Cymru Wales Centre Council of the Chartered Institution of Wastes Management welcomes the opportunity of contributing to the above Consultation and is supportive of the National Assembly devolving landfill tax to the country.

Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;

The bill appears to be comprehensive and takes account of the majority of any barriers to implementation with the following exceptions;

- The bill does not contain any detail in respect of the potential for double payment in respect of materials that have been deposited at a place that is not, and does not form part of, an authorised landfill site where the tax is paid by the relevant person and is subsequently removed for disposal at an authorised landfill site. The Explanatory Memorandum sets out that this is a deliberate effect

Whether there are any unintended consequences arising from the Bill

Unintended consequences are not immediately apparent but there does remain potential for this in respect of regulation under this bill.

The financial implications of the Bill (as set out in Chapter 6 of the Explanatory Memorandum);

The financial implications appear to have been fully accounted for within the RIA.

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of the Explanatory Memorandum);

The powers set out appear appropriate.

Whether the Welsh Government's principles for the development of devolved tax policy and legislation have been followed:

Be fair to businesses and individuals who pay them;

Be simple, with clear rules which seek to minimise compliance and administration costs;

Support growth and jobs that in turn help tackle poverty; and

Provide stability and certainty for taxpayers.

In so far as the details within the bill provide these principles appear to have been complied with the exception of the impact of these proposals on landowners who have been subject to waste materials fly tipped on their land where they might be liable for landfill disposals tax even if they did not cause or knowingly permit the deposit. However, there will be further need for assessment of compliance with these principles in relation to the regulations under this bill.

The definition of a 'taxable disposal' and 'qualifying materials';

We previously stated in our consultation submission that 'If thresholds are to be specified then they need to be quantifiable and measurable. If this can't be achieved then there is little point in considering setting a threshold to define any level for small quantity' of non-qualifying waste in a load of qualifying material.

Non-homogeneous waste will be very difficult to sample and define whether the threshold has been exceeded or not. Introducing such a definition as 'a small quantity' will add costs to landfill operators and a further regulatory burden on both the operator and regulator. Therefore, any non-qualifying material in a load of material accepted for the lower rate should not be allowed and the higher rate applies, this would increase the incentive to properly sort wastes prior to disposal.'

There are situations where the requirement in section 16, requirement 3 which states that non-qualifying materials must not have been mixed deliberately for the purposes of disposal or in preparing the disposal may be difficult to achieve as a result of the processes within a waste transfer station. This is where fines result from the processes utilised which could be of an inert nature or could be of a biodegradable nature, but only chemical or biological analysis would determine the actual composition. These fines cause difficulties to regulators due to their ambiguous appearance and the desire of waste management facility operators for these materials to be regarded as lower tax rate and inert to enable a greater range of disposal opportunities and to reduce costs. This may be an issue with compliance with section 17 dependant on the content of the regulations provided for within this

section, CIWM Cymru Wales is pleased that this issue will be resolved in forthcoming regulations. We also note that the definitions of qualifying materials and different rates of tax will be established through regulations with the need for Welsh Government to bear in mind the need for consistency across the Wales England boundary to avoid waste tourism and the community detriment that this would cause.

The provisions on how the tax will be calculated including the taxable weight of material and the discount in respect of water content;

These provisions appear comprehensive.

The implementation of tax rates and whether these retain the flexibility to deal with subsequent changes at a Wales and UK level;

The fact that the details in respect of these matters will be covered by regulations will provide the flexibility required.

The proposed exemptions;

The proposed exemptions are comprehensive in so far as they have been established; however, there may be scope to extend these in respect potential for double payment matter raised above.

The proposed reliefs;

The proposed reliefs are comprehensive; however, it is possible that the relief proposed for refilling former quarries might exclude many of the authorised landfill sites from payment of landfill disposal tax due to the fact that many of such sites were quarries and have conditions within the planning permission requiring the resultant void to be wholly or partially refilled. This matter should be examined to establish the impact of this issue.

The inclusion of unauthorised disposals of waste at places other than authorised landfill sites;

The inclusion of unauthorised deposits is supported; this will however require the Welsh Revenue Authority to work closely with Natural Resources Wales, it is noted that WRA will delegate compliance and enforcement functions to Natural Resources Wales. But the question remains on how this will work in practice and whether there will be any internal separation between the normal enforcement role of NRW with respect to unauthorised deposits and the WRA delegated role.

There is however an issue with respect of situations where the landowner did not knowingly cause or knowingly permit the deposit is to be treated as is to be treated as having knowingly permitted the disposal to be made for the purpose of the landfill disposals tax. This appears unfair and contrary to the Welsh Government's principles for the development of devolved tax policy.

The inspection of premises for the purposes of ascertaining a person's liability to Land Disposals Tax and the sharing of information between the Welsh Revenue Authority, Natural Resources Wales and local authorities;

There are significant powers proposed within this bill and the information sharing set out appears to be wholly to the benefit of the Welsh Revenue Authority there is no apparent sharing of information in respect of benefit to local authorities or Natural Resources Wales.

The duties on taxpayers to make payments and pay penalties and interest in certain circumstances;

These are clear in the bill.

How companies, partnerships and unincorporated bodies are treated in terms of the provisions and responsibility for compliance; and This section appears comprehensive.

Establishing the Landfill Communities Scheme as a grant scheme rather than a tax credit and developing it outside of the Bill.

We note that there is a paper published on Landfill Disposals Tax Communities Scheme and will respond on this in due course before the deadline of 7 February

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