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MPA submission to HMRC consultation “Landfill Tax- Liability of waste ‘fines’”

Thank you for informing the Minerals Products Association of the HMRC consultation “Landfill Tax- Liability of waste ‘fines’”.

The Mineral Products Association (MPA) is the trade association for the aggregates, asphalt, cement, concrete, dimension stone, lime, mortar and silica sand industries. With the recent addition of The British Precast Concrete Federation (BPCF) and the British Association of Reinforcement (BAR), it has a growing membership of 450 companies and is the sectoral voice for mineral products. MPA membership is made up of the vast majority of independent SME companies throughout the UK, as well as the 9 major international and global companies. It covers 100% of GB cement production, 90% of aggregates production and 95% of asphalt and ready-mixed concrete production and 70% of precast concrete production. Each year the industry supplies £9 billion of materials and services to the £120 billion construction and other sectors. Industry production represents the largest materials flow in the UK economy and is also one of the largest manufacturing sectors.

MPA has provided representation to HMRC since the introduction of Briefing Notes 15/12 and 18/12. Our response to this consultation concentrates on the ability for our members to continue to restore exhausted mineral workings. Many of our members restore their sites under Environmental Landfill Permits and in accordance with the exemption to landfill tax secured in 1999. It is essential that our member’s ability to restore sites in this way is not effected.

When Landfill Tax was introduced in 1996 legislation provided no relief for wastes used to restore quarry workings. This resulted in operators being unable to secure the volumes of suitable wastes necessary to ensure progressive restoration and had a consequential impact on mineral extraction. Planning consents for quarry workings typically preclude mineral extraction unless progressive restoration is achieved.

This issue was recognised by Government and The Landfill Tax (Site Restoration and Quarries) Order 1999, SI 1999 No. 2075 was enacted, which amended The Finance Act 1996 and in particular added Section 44A which relates to quarry restoration.

Section 44A of Finance Act 1996 (as inserted by the Landfill Tax (Site Restoration and Quarries) Order 1999) provides that lower rated waste which is used for the purposes of filling existing or former quarries may qualify for exemption from landfill tax. To qualify for the lower rate, the material must be listed in the Landfill Tax (Qualifying Material) Order 2011 (the 2011 Order). FA96 s44A also requires that the permit only allows for disposal of qualifying material.

Previously, we recommended that this issue could be solved fairly easily by a further Position Statement-

“For the purposes of Section 44A (2) (c) of the Finance Act 1996, a quarry will be accepted as exempt from Landfill Tax where:

- *the site is only disposing of qualifying material, or,*
- *the environmental permit is for a landfill defined as an ‘inert waste landfill’ under the Landfill Directive 99/31/EC.”*

Unfortunately an agreement to publish this statement was not reached. However, with the introduction of further tests for some waste types that may be listed on the Environmental Permit as “acceptable”, this raises further concern over FA96 s44A. It should be noted that even if a waste type is listed as acceptable on an Environmental Permit it does not necessarily mean that the waste type is accepted, only that it is considered “inert” in terms of environmental protection and suitable for the proposed operation.

The MPA do not believe that the LOI test being applied to “waste fines”, under the code 19 12 12, will affect the restoration of quarries permitted as landfill. However, there still appears to be confliction between the Environmental Permit and the requirements set out in the Finance Act.

I hope you find our comments constructive, please do let me know if I can be of further assistance.

Yours sincerely,

Nicola Owen

Environment and Waste Policy Executive
Mineral Products Association