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MPA submission on guidance- Landfill Tax- draft further guidance on lower rating

Thank you for informing the Minerals Products Association landfill tax draft guidance on lower rating.

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 have made numerous representations through meetings between industry and Government and written representations last year on the issue of lower rated tax. We also held a meeting with HMRC, Defra and the EA on the 22/06/12 to specifically discuss the issue of exempt quarry restoration activities permitted as inert landfill operation. Following this we requested that formal recognition should be made of the exemption to landfill tax that quarry restoration activities operate under and the issue of permitting to be clarified. We are pleased to see that this has indeed been recognised in the new draft guidance. In general we would consider the draft guidance to be clear and concise and

should provide operators with clear guidance on how to manage their lower-rated waste operations.

We do, however, have the following comments to make-

- It is unclear whether the new guidance note will replace the two briefings, 15/12 and 18/12 and also the further “interim” guidance published on the 4th July 2012. Clearly Guidance should be concise and contained preferably in one document. We would consider that the new draft guidance should replace the two briefings and the interim guidance note mentioned above.
- Through out the document 17 05 04- stones and soils is referred to numerous times and it is made clear the topsoil is excluded. It would be preferable, to avoid repetition and confusion, to issue a statement at the beginning of the document indicating that although 17 05 04- stones and soils is an acceptable ECW code, topsoil and peat are excluded from the Qualifying Order.
- We would consider a specific example on “construction soils” would be accepted as lower rated under the Qualifying Order useful. Depending on the site, there will be the occasion when “construction soils” are indeed lower rated as according to Qualifying Order and likewise when they are not.
- There is concern that although the transfer note is a useful document that it may not provide all of the information HMRC require for tax purposes. In reality the document is for a different purpose and is not always completed correctly by the producer or waste carrier. By the time the waste arrives on to a disposal site the operator is not at liberty to amend it. We understand that there is scope to use supporting documentation if the words 'are not quite right' within the Waste Transfer Note. However, we would consider that it would be better if the transfer notes did contain the 'right words' and this may be easily done by providing a short hand system to record the waste type in accordance with Qualifying Order. Section 3.4 covers 'other supporting evidence' but still states '*Please note that the waste transfer documentation must still include a clear and accurate description of the qualifying material*'. If the transfer note is going to provide the main documentation for supporting the tax rate of the load of waste there needs to be a process in place to ensure that transfer notes are correctly filled in at the time waste is accepted and transported. Once delivered to the landfill site it is too late to amend the waste description on the waste transfer note and ultimately this could result in waste being turned away.
- In relation to the point above further clarification on other supporting evidence to demonstrate the waste accepted is on the Qualifying Order is needed. Our Members often have contracts with demolition sites and in these cases an over-arching contract will be agreed. Assuming this contract details that the waste accepted is on the Qualifying Order would this be acceptable supporting evidence? In the situation where a waste transfer note does not provide enough evidence that

material is lower rated would supporting evidence such as this clarify that the waste is on the qualifying order?

- Who is the Guidance document aimed at? Currently the document is not consistent in this respect.
- There has been concern since the start of these discussions that where landfill permits for quarry restoration restrict acceptable waste to inert only, HMRC may not accept this as conforming with the requirements of the exemption from landfill tax. MPA understands chapter 5, Filling of quarries, attempts to iron out this issue. However, we still consider that the most appropriate action would be to amend the Statutory Instrument (SI 1999/2075).

With respect to the draft Guidance, MPA agree that the emphasis should be on the waste transfer note and appropriate evidence to indicate that the waste accepted is lower rated and not on the particular wording of the Environmental Permit. It is our understanding that the majority of our Members disposal permits for quarry restoration do not mirror the wording in the Order and so it would be appropriate to use the waste transfer note and supplementary evidence to indicate that they are working with in the exemption to landfill tax.

For example, an Environmental Permit allows inert material and in particular details EWC 17 01 01, 17 01 02, 17 01 03 and 17 09 04. 17 09 04 may or may not be lower rated depending on the accompanying Waste Transfer Note and supplementary evidence. However, unlike the example in the guidance the permit itself combined with a regulation (i.e. 2003/33/EC) does not make it 100% technically certain that non-qualifying material will be deposited. Therefore, is the existence of 17 09 04 on the Environmental Permit result in the quarry exemption not being available?

We would consider that the SI should be amended, or if not, then the draft guidance should contain further examples to provide clarity as to HMRCs intended outcome for examples such as the hypothetical example above.

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