

HMRC Landfill Tax Crackdown

In recent years, HMRC has markedly increased its compliance activity in relation to Landfill Tax and it is therefore important that businesses operating in this area are aware of common issues that are triggering time-consuming tax enquiries, subsequent disputes and litigation.

Landfill Tax was introduced in October 1996, to encourage businesses to adopt a more environmentally sustainable approach to waste disposal. Landfill Tax is charged on waste disposed of on a landfill site (either authorised or unauthorised).

There are two rates of Landfill Tax (effective from 1 April 2025):

- the Lower Rate of £4.05 per tonne on certain “qualifying materials” and
- the Standard Rate of £126.15 per tonne on everything else.

Disputes

Despite a relatively straightforward statutory framework, the implementation of Landfill Tax can give rise to a variety of disputes with HMRC, which can result in extensive HMRC enquiries and subsequent assessments for significant amounts of Landfill Tax. We have set out below three examples of common disputes.

Does the material disposed of qualify for the Lower Rate?

The [Landfill Tax \(Qualifying Material\) Order 2011 \(QMO\)](#) provides that “qualifying materials” benefitting from the lower rate must:



consist of materials listed in Column 2 of the QMO Schedule (eg rocks, soils, ceramic, concrete)



meet the conditions listed in Column 3 of the QMO Schedule (eg rocks must be naturally occurring)



must be accompanied by a “transfer note” which includes a description of the material.

HMRC frequently challenges whether materials fall within this definition. For example, in *Singleton Birch Ltd & FCC Recycling (UK) Ltd v HMRC* [2025] UKUT 72 (TCC), the Tribunal was asked to consider whether a type of waste produced by a titanium dioxide manufacturer could be described as a “calcium-based reaction waste from titanium dioxide production” within the meaning of Column 2 of the QMO Schedule.

Does the disposal properly qualify for a water discount?

In certain circumstances, you can apply to HMRC to discount the water content of material when calculating the taxable weight of the material.

You can do this where the water accounts for 25% or more of the weight and the water has been added in order to: (1) allow transportation for disposal; (2) used for the extraction of minerals; or (3) added in the course of an industrial process.

As these discounts usually apply to waste subject to the standard rate, the discount can be significant and HMRC frequently challenge its application.

Is the disposal illegal or unauthorised?

As mentioned above, HMRC can charge Landfill Tax on disposals made at an unauthorised site. To determine whether such a disposal has occurred, HMRC will consider the nature of the material, the location of the deposit, and the manner in which it was deposited.

Disputes can arise in relation to whether a disposal at an unauthorised site has occurred, but also in relation to liability. Not only is the person making the disposal potentially liable, but anyone who knowingly causes or facilitates the disposal may also be jointly and severally liable. HMRC apply this broadly and can investigate anyone who is involved in the disposal chain, including waste brokers and individual company officers.

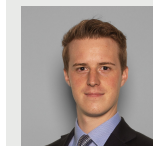
We have extensive experience of managing complex HMRC Landfill Tax enquiries and resolving disputes with HMRC in this area. If you have an issue (or potential issue) you would like to discuss, please contact Michelle Sloane or Daniel Williams.



CONTACTS



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