



Llywodraeth Cymru
Welsh Government

OPEN CONSULTATION, DOCUMENT

Public consultation on the lower rate of Landfill Disposals Tax

We want your views on options for adjusting the lower rate of Landfill Disposals Tax (LDT).

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Overview

The Welsh Government welcomes views on options for adjusting the lower rate of Landfill Disposals Tax. The Welsh Government will make a statement regarding the next steps once the consultation has closed and responses have been considered.

Introduction

This consultation seeks views on 3 options for adjusting the lower rate of Landfill Disposals Tax in Wales:

- a. removing the lower rate (in phases or in one amendment)
- b. substantially increasing the lower rate
- c. changing the materials to which the lower rate applies

These options aim to:

- support the Welsh Government's commitment to making Wales a Zero Waste nation by 2050, and
- reduce the risk of waste being misdescribed to pay less tax.

This consultation is being conducted over an 8-week period rather than the usual 12 weeks. The shorter than normal consultation period reflects the brevity and narrow focus of the consultation.

This consultation document contains an explanation of the options under consideration along with questions for the public. The Welsh Government is interested in the public's answers to these questions in particular, but welcomes all comments regarding the options.

Responses to this consultation will support the Welsh Government in its consideration of the costs, benefits and wider impact of the options, including in terms of social, cultural, economic and environmental well-being, socio-economic disadvantage and the Welsh language.

Please support your view with evidence and get in touch if you would like to discuss your view with officials.

Consulting on devolved taxes

The Landfill Disposals Tax (Wales) Act 2017 (LDTA) and LDT are kept under review by the Welsh Government. The Welsh Government follows the tax principles set out in the [Tax Policy Framework](#) in its approach to developing and delivering devolved tax. Welsh taxes should:

- raise revenue to fund public services as fairly as possible
- deliver Welsh Government policy objectives
- be clear, stable and simple
- be developed through collaboration and involvement, and
- contribute directly to the Well Being of Future Generations Act goal of creating a more equal Wales.

There is no specific statutory duty to consult on the matters under consideration in this consultation. The Welsh Government has chosen to consult the public to assess views of the potential impact of the options, and to inform its decision making.

The lower rate of Landfill Disposals Tax

The Welsh Government welcomes views on its options for adjusting the lower rate of LDT. Responses to this consultation will support the Welsh Government's assessment of the impact in Wales if the lower rate of LDT were adjusted and aid the decision-making process in respect of adjusting the lower rate of LDT.

The Welsh language

The Welsh Government also welcomes views on any effects the options may have on opportunities to use the Welsh language and on ensuring the Welsh language is treated no less favourably than English.

Responses to this consultation are also welcomed in the Welsh language.

What happens next

This consultation runs from 19 July to 15 September 2024.

Responses to this consultation will initially be seen and considered by officials in the Welsh Treasury, the department of Welsh Government which advises Ministers on tax policy, and the Welsh Revenue Authority which is responsible for managing devolved taxes and ensuring taxpayers pay the correct amount of LDT. The Welsh Revenue Authority publishes [information about its approach to managing taxes](#). The WRA also publishes [guidance describing the powers and duties of the Welsh Revenue Authority](#) and the duties and rights of taxpayers. Responses may also be seen and handled by officials in other departments of the Welsh Government.

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After the consultation, the Welsh Ministers will consider the responses, issue a report summarising them, and set out their intentions and next steps.

References

The following references and links may be useful to readers:

- the Welsh Government’s information web pages on [Landfill Disposals Tax](#).
- the full text of the [LDTA](#).
- the full text of the [Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018](#).
- the full text of the [Landfill Disposals Tax qualifying mixtures of materials: fines notice](#)

Key terms

Qualifying material

The lower rate of LDT only applies to “qualifying material”, including qualifying mixtures of material. There are 8 categories of qualifying material:

- rocks and soil
- ceramic or concrete material
- minerals
- furnace slags
- ash
- low activity inorganic compounds
- calcium sulphate
- calcium hydroxide and brine

To be considered qualifying, material must meet the conditions set out in sections 15 to 17 and schedule 1 of the [LDTA](#). Schedule 1 also provides more detail on each category.

Fines

Fines are particles produced by a waste treatment process that involves mechanical treatment. Fines may be considered a qualifying mixture of materials, and be disposed of at the lower rate of LDT, where they meet the conditions set out in:

- section 16 and 17 of the [LDTA](#)
- section 4 of the [LDT \(administration\) regulations](#)
- the [LDT fines notice](#)

Waste codes

All waste must be identified and classified before being sent for recycling or disposal. The waste classification code, also referred to as the List of Waste or European Waste Catalogue, classifies different types of waste by unique codes. The correct codes must be used to identify material sent to landfill. More guidance on [waste classification](#) is available at the GOV.UK website.

Consultation issues

Introduction

1.1 The Welsh Government intends to propose to the Senedd an amendment to the LDTA that will significantly adjust the lower rate of LDT. It is considering

three options for this adjustment. The current rules and the options are explained below.

Current rules

1.2 There are 3 rates of LDT. To date, these have been annually increased in line with forecast inflation and have remained aligned with rates of Landfill Tax in the rest of the UK. These are:

- the lower rate, currently £3.30 per tonne, which applies to qualifying material.
- the standard rate, currently £103.70 per tonne, which applies to all other waste disposed of legally.
- the unauthorised rate, currently £155.55 per tonne (150% of the standard rate) which applies to all waste disposed of illegally and which is unique to Wales.

1.3 Landfill Site Operators must record the tonnage of waste they accept at each rate and file this with the Welsh Revenue Authority. A total tonnage is required for standard rate disposals but for lower-rated disposals, the tonnage must be broken down by the relevant waste code. For fines, the tonnage must also be broken down by the customer.

1.4 To help ensure that the lower rate of tax is being claimed only for qualifying material, the Welsh Revenue Authority works closely with Landfill Site Operators to assess which waste codes apply to the material they accept and whether these codes should qualify for the lower rate. Each Landfill Site Operator is provided with bespoke tax returns, which require information on only the waste codes which are relevant to them.

1.5 The GOV.WALES website provides more detailed guidance on the information required to [file an LDT return](#).

The options for adjusting the lower rate

1.6 The Welsh Government has committed to making Wales a Zero Waste nation by 2050, and to achieve as close to zero landfill as possible by 2025, meaning waste in Wales must be reduced, reused and recycled, instead of being sent to landfill. LDT provides a financial incentive to achieve this aim.

1.7 Since inception, the lower and standard rates of LDT have applied to different waste material due to both environmental and economic reasons. The landfilling of inert material, such as rocks and soil, has been lower-rated as it is considered unlikely to cause land, water or air pollution. Other, non-inert material has been lower-rated through government decisions resulting from representations made by businesses when Landfill Tax was first introduced in 1996.

1.8 In the 2023 to 2024 tax year in Wales, 272,000 tonnes of waste were landfilled at the standard rate and 576,000 tonnes were landfilled at the lower rate. Since LDT was devolved in 2018, there has been a 49% decrease in the landfilling of standard-rated material. However, there has been a 9% increase in the landfilling of lower-rated material, despite much of this material being highly suitable for reuse. The WRA publishes [statistics on LDT on a quarterly and annual basis](#).

1.9 The high standard rate of LDT is effective at reducing landfill while the lower rate makes landfilling qualifying material cheaper than reducing, reusing, recycling or using more sustainable alternatives to dispose of it. The lower rate also creates a strong incentive to misdescribe waste as qualifying material to avoid paying the standard rate. This creates a tax risk and leads to poor environmental outcomes as incorrect disposal of standard-rated material can lead to air, ground, and surface water pollution.

1.10 An independent review of the Landfill Disposals Tax (Wales) Act 2017 was

published in July 2023. This review found that the gap between the lower and standard rates of LDT had contributed to the intentional misdescription of waste.

1.11 The review also found that the LDT rates were not acting as a deterrent to landfill treatment for a number of specific types of waste. This was attributed in part to landfill disposal being a cheaper alternative to other forms of treatment.

1.12 To help fulfil its commitment to making Wales a Zero Waste nation, and to reduce the tax risk posed by waste misdescription, the Welsh Government intends to propose to the Senedd a significant adjustment to the lower rate of LDT. Three options for adjustment are being considered:

a. Removing the lower rate

1.13 Under this option, all waste material disposed of via landfill would be taxed at the standard rate. The lower rate could be removed in one step, or it could be increased over time until it aligns with the standard rate and is then removed.

b. Significantly increasing the lower rate

1.14 Under this option, the lower rate would be significantly increased. One approach would be to maintain the lower rate at a percentage of the standard rate.

c. Changing the materials to which the lower rate applies

1.15 Under this option, some categories of qualifying material would be removed and become standard-rated. One approach would be to only retain at the lower rate categories of qualifying material which are not suitable for reduction in use, for reuse, for recycling or for disposal via more sustainable methods. This option

could be combined with option b.

Impact

1.16 The Welsh Government invites views and evidence on the potential impact of these options. Potential impacts include:

- disruption to the business models of some waste producers and Landfill Site Operators
- increased prices for products requiring the use of qualifying material
- change in demand for some businesses, such as those involved in treatment and recycling industries
- cross-border movement of waste to other nations, as a result of differing rates of tax under different landfill taxes
- an increase in unauthorised disposals of waste

Consultation questions

Questions on all options

The Welsh Government will make the final decision on adjusting the lower rate of LDT, taking into account:

- the responses to this consultation
- any other relevant comments expressed elsewhere
- ongoing analysis of impacts
- the Welsh Government's tax principles

The Welsh Government are considering the following options for adjusting the lower rate of LDT:

- a. removing the lower rate
- b. significantly increasing the lower rate
- c. changing the materials to which the lower rate applies.

Question 1.1

The Welsh Government's tax principles state that Welsh taxes should:

- raise revenue to fund public services as fairly as possible,
- deliver Welsh Government policy objectives,
- be clear, stable and simple,
- be developed through collaboration and involvement, and
- contribute directly to the Wellbeing of Future Generations Act goal of creating a more equal Wales.

Do you agree or disagree that these options align with the Welsh Government's tax principles? Please explain your answer.

Question 1.2

What positive impacts, if any, do you think these options would have on:

1. the environment
2. the economy
3. the people of Wales
4. you and/or your business

Question 1.3

How could these options be adjusted to increase or enhance any positive impacts?

Question 1.4

What negative impacts, if any, do you think these options would have on:

1. the environment
2. the economy
3. the people of Wales
4. you and/or your business

Question 1.5

How could these options be adjusted to reduce or mitigate any negative impacts?

Question 1.6

Do you consider that there should be a lower rate, as is currently the case?
Please explain your answer.

Questions on option a: removing the lower rate

Question 1.7

Removal could take place in one amendment, or could take place in phases.
What do you consider the advantages and disadvantages of each option to be?
Please explain your answer.

Question 1.8

If the lower rate was removed in phases, what do you consider would be the best way to phase it out and why?

Question 1.9

If the lower rate was removed in one amendment, how much time do you think would be needed to adequately prepare for this change? If applicable, what steps would you need to take to prepare your business for this change?

Question 1.10

If the lower rate was removed, what barriers, if any, do you think would be faced in adapting to that change?

Questions on option b: increasing the lower rate

Question 1.11

If the lower rate was retained, what do you consider that rate should be and why?

Question 1.12

What barriers, if any, do you consider would be faced in adapting to a significant increase in the lower rate?

Questions on option c: changing the materials which are lower-rated

Question 1.13

Are any qualifying materials particularly difficult to reduce, reuse, recycle or dispose of via more sustainable methods than landfill? Please explain your answer.

Question 1.14

Which qualifying materials do you think should remain lower-rated? Please explain your answer.

Question 1.15

Which qualifying materials do you think should become standard rated? Please explain your answer.

Broader questions

Question 1.16

What methods do you know of to reduce, reuse, recycle or more sustainably dispose of qualifying materials? If applicable, what methods do you currently use?

Question 1.17

In what other ways could the Welsh Government improve financial incentives to reduce, reuse, recycle or dispose of qualifying materials via more sustainable methods than landfill?

Question 1.18

What other options would you recommend to reduce the risk that waste will be misdescribed to pay less tax?

Question 1.19

What more do you think could be done/what could be done differently, to reduce the risk of unauthorised disposals of waste?

The Welsh language

The Welsh Government invites views on any effects these options could have on opportunities to use the Welsh language and on ensuring the Welsh language is treated no less favourably than English.

Question 2.1

What, if any, impact would these options have on opportunities to use the Welsh language?

Question 2.2

Do you think these options could be changed to better support the Welsh language and ensure it is treated equally with English? Please explain your answer.

Other comments

We have asked a number of specific questions. If you have any related issues or comments which you would like to share, please use the space below to do so:

How to respond

Submit your comments by 15 September 2024, in any of the following ways:

- complete our [online form](#)
- download and complete our [response form](#) then email LDT.LowerRate.Consultation@gov.wales
- download and complete our [response form](#) then post it to:

Landfill Disposals Tax lower rate consultation

Tax Strategy and Intergovernmental Relations Division
Welsh Treasury
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

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- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

Data Protection Officer

Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Email: data.protectionofficer@gov.wales

Rydym yn croesawu gohebiaeth yn Gymraeg / We welcome correspondence in Welsh.

Information Commissioner's Office

Wycliffe House

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Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 01625 545 745 or 0303 123 1113

Rydym yn croesawu galwadau yn Gymraeg / We welcome calls in Welsh.

Website

UK General Data Protection Regulation (UK GDPR)

The Welsh Government will be data controller for Welsh Government consultations and for any personal data you provide as part of your response to the consultation.

Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. The lawful basis for processing information in this data collection exercise is our public task; that is, exercising our official authority to undertake the core role and functions of the Welsh Government (Art 6(1)(e)).

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. In the case of joint consultations this may also include other public authorities. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

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In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation and that the Welsh Government may be under a legal obligation to disclose some information.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than 3 years.

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