Partial Business and Regulatory Impact Assessment

1. Title of Proposal

Landfill Tax Bill 2012

2. Purpose and Intended Effect

Background

The purpose of Landfill Tax is to discourage landfilling of materials and resources and encourage alternative treatment options. The Scotland Act 2012 devolves responsibility for taxing disposals to landfill to the Scottish Parliament. This includes responsibility for determining the nature of any tax, any rates, thresholds and exemptions and also responsibility for collecting and enforcing payment of the tax and managing an appeals system. Provisions in the Scotland Act 2012 enable the “switching off” of the existing UK Landfill Tax in Scotland from a date to be formally notified, but planned to be April 2015. The Landfill Tax Bill will provide for the “switching on” of a replacement Scottish Landfill Tax at this time. Successful operation of the replacement tax will require the enactment of additional tax management provisions. The Scottish Government proposes to consult on such provisions over winter 2012/13 and to propose legislation later in 2013.

The Scottish Government's Zero Waste Plan (ZWP) www.scotland.gov.uk/Publications/2011/10/14120940/16, launched in June 2010, set out actions to deliver important changes to how Scotland treats and manages waste. The plan is an economic strategy and a resource strategy - not simply a waste strategy. It aims to maximise the value of all the material resources we use in our economy, helping to create new business opportunities as well as savings to existing businesses and local authorities in how they manage waste. To support this aim, the plan includes ambitious recycling targets, including a 70% recycling rate for household and all other waste streams by 2025. Landfill tax is a cornerstone of the modern waste and resource landscape and enables many actions in the ZWP.

The financial savings that can be made through avoided landfill tax are now central to the economics of waste management (and Scotland’s ZWP) and underpin much of the savings to businesses and local authorities, and infrastructure investment decisions. As such, the proposal to legislate for a replacement landfill tax will affect the whole private waste management sector and local authorities. Savings on tax liabilities by using alternatives to landfill also underpin cost-benefit analyses carried out by local authorities when reviewing their waste management services, as well as similar exercises performed by most companies when reviewing their environmental policies. Preparation and the policy proofing of our intended primary legislation (and later secondary instruments) will therefore require engagement with the whole waste sector.
U.K. Landfill Tax

When the tax was introduced in 1996, typical pre-tax disposal fees for municipal wastes, or non-inert industrial wastes, were between £7 and £25 per tonne. The tax increased the price of landfilling by between 30-100% of the overall cost. The level of taxation for non-inert wastes (i.e. those that degrade to produce Green House Gases (GHGs)) was increased by means of an annual price escalator that was first introduced in 1998. Since then the magnitude of the escalator has increased (initially £1 per tonne per year escalator for five years, then £3 per tonne over three years, to the current £8 per tonne per year for three years, and due to continue at this rate for a further two years until reaching £80 in 2014/15). Since March 2012, the tax rate has been £64 per tonne. The tax rate for inert wastes has remained relatively steady with only a 50p increase to £2.50 per tonne in 2007.

**Figure 1: U.K. Landfill Tax Rates (£/tonne)**

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Source: HMRC

**Objective**

The objective of the tax is to compensate for the impacts on the environment (and people), which are side-effects of processes from landfilling material. The rates are designed to promote behaviour change and the adoption of less polluting, less wasteful and more sustainable practices, reducing the environmental costs of waste and consumption.

By ensuring that waste producers incorporate the full cost of waste disposal into business decisions, landfill tax encourages the development of sustainable waste management options, including recycling and anaerobic digestion. Since 1997, the UK landfill tax has contributed to a 32 per cent reduction in the proportion of waste sent to landfill and a similar increase in recycling.

The financial savings that can be made through adopting alternatives to landfill and so not having to pay the associated tax, are now central to the economics of waste management. Furthermore, the tax has helped establish the stable policy landscape needed to support long-term investment decisions on waste and resources infrastructure and collection systems.

The objective of this work is to establish a Scottish Landfill Tax that will be activated once the UK Landfill Tax system in Scotland is „switched off“. In order to set up a Scottish Landfill Tax system, the Scottish Government needs to bring forward primary legislation, followed by regulations, to establish the rules governing the new system.
Rationale for Government Intervention

Landfill tax is a key driver in Zero Waste policy. It fuels investment in infrastructure and recycling technologies whilst diverting materials away from landfill and into the recycling and re-use sector. This corresponds with current waste policy that looks at maximising the use of resources and seeing waste as an opportunity instead of a problem. Landfill tax is a key element of achieving the Zero Waste targets of recycling 70% of all waste by 2025.

Economic activity and the consumption of goods and services create waste. However, one person’s waste is another person’s resource. In this context, waste can drive economic activity - whether through recycling and energy recovery or through more efficient use of resources.

In 2009 Scotland produced 17.11 million tonnes of waste. Although progress is being made to reduce waste generation and to recycle key materials, the resource value of much of Scotland’s waste remains untapped: it is estimated that there is over £100 million worth of untapped resources in household waste alone, and this figure is set to rise as the value of discarded materials increase.

An important rationale for Government intervention in the waste sector is related to the impact of (GHG) emissions. The management and disposal of waste produces GHG emissions, the full social cost of which is not taken into account either in the production and consumption decisions which lead to the generation of the waste, or in how that waste is managed. Ensuring that the amount of waste is reduced to the economically efficient level, and is optimally managed, will ensure that waste policy is delivering net benefits for society as a whole. As discussed below, robust measures of these costs have yet to be fully developed.

Contribution to the Government’s Purpose and National Outcomes

The proposals in the consultation are part of a wider initiative to maximise the benefit for Scotland of the new powers in the Scotland Act 2012. The immediate aim of the consultation is to gather views on how best to design the replacement tax on landfill and the associated tax credit scheme that at present provides funding for community and environmental projects.

The establishment of a replacement tax will ensure that Scotland continues to benefit from the important role that landfill tax has played in driving waste away from landfill and in creating the stable policy landscape needed to underpin long-term investment decisions on infrastructure and collection systems. In doing so, the proposals will contribute to the National Outcome on valuing and enjoying our built and natural environment and protecting it and enhancing it for future generations.

The proposals also contribute to the National Outcome on ensuring our public services are high quality, continually improving, efficient and responsive to local people’s needs by proposing to more closely align landfill tax administration with the process of providing environmental permissions in respect of landfill sites, thus creating scope to reduce the regulatory burden through reduced site visits and reporting.
**Efficiency and Market Failures**

Prior to local provision of collection and disposal services, local environments were spoiled by the unregulated disposal of wastes. To overcome public, health and environmental concerns of these problems, government intervention has been necessary and local governments have set up collection and disposal systems to ensure waste is properly disposed of by households, as well as regulating to ensure businesses dispose of waste properly.

Other market failures and barriers to an optimised waste management system include imperfect information and competition, or barriers to efficiency such as excess planning costs, lack of access to credit, and long payback periods. New technologies can also require additional intervention to overcome innovation market failures. Tackling these failures alongside externalities reduces the costs to the economy of reacting to policy instruments, and in the transition towards a more circular and sustainable economy.

Landfill tax increases the cost of sending waste to landfill, in part reflecting the environmental externality (wider effects) of disposing waste in this way. But it does not reflect the relative scale of the knock on consequences on treatment and disposal methods further up the hierarchy; for example, effects on energy from waste, recycling or re-use. The Waste (Scotland) Regulations 2012 are complementary instruments that are required to ensure a cost effective waste management system when energy recovery, recycling, re-use and waste prevention are included.

**Figure 2** Zero Waste - a more circular model of resource use

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**Costs and Externalities (Wider Effects) of Landfill**

GHG emissions are a key determinant of the wider effects of landfilling. Although landfills generate gas some of this gas is captured by the landfill itself. Where this is
used to generate electricity, it is also assumed to offset the emissions associated with fossil-fuel derived generation. Many UK studies have used quite high figures for this, sometimes of the order of 75%.

A recent study used a detailed life-cycle analysis model to help determine the damage costs associated with landfilling residual municipal waste\(^1\). The result – based upon a lifetime capture rate for landfill gas of 50% – was between £61 and £76 per tonne (low and high respectively), higher than previous estimates which have been based on low damage costs for the emission of methane, and high capture rates for the landfill gas which is generated.

Similar modelling indicates that where waste is stabilised prior to being landfilled, the impact falls to around £15 per tonne. This approach was used to argue in favour for reduced landfill taxes being applied to such materials\(^2\). The taxing of completely inert materials is related more to the disamenity, minimising the extraction of primary resources and land-use related effects of landfilling rather than the emissions of methane.

Current and robust empirical evidence on the environmental costs associated with landfill is lacking but the most up-to-date estimates point to a better understanding that these costs are higher than previously thought. It can be argued that the current landfill tax escalator, at £80/tonne in 2014, would be above the rate at which environmental damages caused by landfilling are internalised by the tax. The Scottish Government will seek to source more robust data to be presented in the Final BRIA.

Environmental Benefits from Landfill Taxation

The aim of landfill tax is to push waste up the waste hierarchy. The waste hierarchy, as set out in the revised Waste Framework Directive, is reproduced below. This ranks the various waste management options broadly according to their environmental desirability.

Figure 2: The Waste Hierarchy

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The basic premise is that as landfill prices rise, less waste will be disposed to landfill and more will be prevented, re-used and sent to alternative treatments (moving materials up the hierarchy). The degree to which this occurs relates to the alternatives available and their price relative to that of landfill. We have set out the main impacts of Landfill Tax to each of the treatment options below.

**Waste Reduction & Prevention** - The environmental benefits from any waste prevention effects include:

- reductions in GHGses and aquatic and soil toxicity effects associated with less material managed in landfill;
- reductions in energy consumption associated with a lower demand for goods; and
- less hazardous material in the waste stream.

In a recent publication, „The Economics of Waste and Waste Policy“ Defra discusses the costs and benefits associated with reducing waste. For example, reducing waste through making production processes more resource-efficient has benefits in terms of GHG emissions avoided and savings in material costs. However, it is also likely to impose additional costs in terms of the investment in equipment and other resources required to make the change. It is efficient to reduce waste as long as market failures are not internalised and the benefits of doing so exceed the cost of making it happen.

A survey of international evidence on waste minimisation impacts resulting from landfill taxation is inconclusive, but some evidence does exist at the UK level that links the two.

Work by Cambridge Econometrics and ECOTEC, shortly after the introduction of the tax in 1996, showed that 31% of firms contacted were actually considering waste recycling, re-use or minimisation, or stepping up such activity, as a consequence of the tax. For industrial business with large homogenous waste streams this seems logical. Studies by Eunomia on food manufacturing over the last three years also suggests that, as a direct consequence of increased disposal costs, businesses have sought to change manufacturing processes to minimise waste.

In addition to incentivising the efficient amount of waste at the aggregate level, markets alone will not necessarily ensure that the efficient amount of waste is going to each level of the hierarchy. Without government intervention, waste treatment options with better environmental performance may be penalised relative to treatments with poorer performance due to higher costs. Accounting for the wider environmental impacts requires that the costs of various treatment options and levels of the hierarchy fully reflect the environmental costs of each option.

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1The Economics of Waste and Waste Policy, Defra 2011.
3EIONET: European Topic Centre on Resource and Waste Management (2007) Finland Waste Factsheet
For waste prevention the effect of the tax is indirect. Increasing the cost of landfilling increases the overall cost of managing a tonne of waste and should lead to a reduction in arisings as a rational adjustment to the tax. The extent to which this occurs, however, is likely to differ in different sectors and for different materials. Where the cost of having waste collected and disposed of is very small relative to the cost of the resource inputs, one might expect a landfill tax to have little waste prevention effect, whereas if the cost of collection and disposal is a significant part of the costs, then it can make a significant difference.

**Recycling** - Some of the environmental benefits associated with recycling relate to avoidance of landfilling, but there will also be additional savings from avoiding virgin material use, and the associated embodied energy achieved through material recovery.

Recycling rates in many European countries have been increasing. As with waste prevention, however, there is relatively little documented evidence to demonstrate that the introduction of a tax or a ban on its own correlates strongly to any increase in recycling.

Most countries which deploy landfill taxes and bans, however, also deploy an armoury of other policy instruments. Taxes and bans tend to support these policies, and assist in moving waste up the hierarchy, but the degree to which they, and not other policies, are responsible is difficult to discern particularly for waste in the municipal sector. However, as Figure 3 shows, there does appear to be some correlation between the landfill tax and the levels of waste diverted from landfill into other waste management options and the effect appears to be strengthening as the tax escalator moves higher.

Where technologies are widely available and where they are competitive in cost, the response can be expected to be considerable. For the opposite case, the shift away from landfill will be more limited. When the cost of disposal increases above the cost of treatment via an alternative method, prices will determine the marginal waste management route. These decisions will be strongly influenced by associated risks (e.g. the presence of lengthy municipal contracts, unproven technology etc.).

There are generally benefits associated with reducing the quantity of waste disposed of in landfills, though these vary with the nature of the material and with the change in the management method. For example, when plastics are switched from landfill to incineration, the net impact in terms of climate change is, under most reasonable assumptions, strongly negative.

The balance of evidence suggests that, alongside a mix of policy instruments, landfill taxes do help reduce the quantity of waste landfilled and the effect appears to be strengthening as the tax escalator moves higher. A recent report by Bio Intelligence Service for the European Commission: Use of Economic Instruments and Waste Management Performances found that “There appears to be a good case…to implement landfill taxes with the aim of increasing the rate of recovery of materials in line with the waste hierarchy.”

**Competing Residual Waste Treatment Options (Energy from Waste and Recovery)** - There is risk associated with the escalation in the standard rate of landfill tax and the potential for competing residual waste options to substitute for landfill.
Lower cost incineration units and Mechanical and Biological Treatment (MBT) / Mechanical and Heat Treatment (MHT) will become more competitive with landfill as the standard tax rate approaches £80/tonne in 2014/15.

Importantly, the calorific value of fuel derived from waste is variable and as different types of wastes (e.g. plastics & paper) are removed from waste streams, energy inputs can fall and adversely affect plant efficiency. The Waste (Scotland) Regulations 2012 will require both source segregation of waste and pre-treatment of any waste going to incineration which will reduce the calorific value of the residual waste as a fuel. It should be recognized also that an international market for refuse derived fuel (RDF) is emerging in parts of northern Europe which is opening up export opportunities for Scottish RDF.

New capacity will be built but as noted here, the investment environment is complex and uncertain. On the one hand, securing a stream of consistent feedstock will prove challenging but on the other hand, the announcement by the Department of Energy and Climate Change in July 2012 that Renewables Obligation Certificate (ROC) payments to Energy from Waste (EfW) plants and advanced EfW plants (pyrolysis & gasification) will remain high through to 2017 may encourage more investment in this sector.

The Scottish Government recognizes the role of thermal treatment, but has made clear that “the feedstock won’t be available in the future to feed large-scale plants or an extensive network of incinerators across Scotland”.

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3. U.K. Landfill Tax and Tonnage Landfilled

Figure 3 shows how the quantity of waste landfilled has changed over time in the UK. The tonnage of waste landfilled under the active rate of tax remained fairly stable from 1997/98 to 2002/03, but has been falling at an increasing rate since then. The total fall over the last 15 years has been of the order 40 million tonnes.

Figure 3. Landfill tax rates and tonnes Landfilled (U.K.)

![Graph showing tonnages of waste and landfill tax rates](source)

Source: HMRC

In real terms the landfill tax increased only marginally between 1996/97 and 2004/05 rising from £7/tonne to £15/tonne. This can partly explain what would appear – at least at the UK level – to be a lack of any very strong shift from landfill to other treatments as a result of the tax. Subsequent increases in the landfill tax escalator appear to be accelerating the diversion away from landfill. A complete breakdown of the data is not available but over the period 2004/05 to 2010/11 the volume of Local Authority Collected Municipal Solid Waste (LAMSW) sent to landfill fell by around 36%, while over the same period the volume of non-municipal solid waste sent to landfill fell by 48%.

The commercial and industrial waste market is, in principle, more dynamic than the municipal one and is more responsive to price signals. The pre-treatment requirements may also be requiring segregation of wastes by companies which have not hitherto been engaged in any such activity. With respect to household waste, the landfill tax, certainly up to its present threshold of £64/tonne, has been less influential in driving waste away from landfill. This view is reinforced given that Local Authority incentives to increase diversions from landfill are supplemented via the Landfill Allowance Scheme (LAS) and recycling targets.

Figure 4 shows the similar position with regards to tonnages of waste and the landfill tax that exists in Scotland.
4. Consultation

Within Government

Preparatory work for the consultation paper is involving discussions across a wide range of Scottish Government interests including:

- Fiscal Responsibility
- Zero Waste Delivery Team
- Constitutional Change
- Scottish Government Legal Directorate
- Better Regulation and Industry
- Analytical services & Economics (Environment)
- HMRC (UK Gov)

Extensive discussions are taking place with the Scottish Environment Protection Agency (SEPA). Whilst acting as the Scottish environment regulator, SEPA also has an interest as the proposed collection agency for landfill tax, on behalf of Revenue Scotland.

The Scottish Government has also been liaising with Zero Waste Scotland as a consultative body.

Public Consultation

We intend to hold a stakeholder workshop towards the end of the consultation exercise and launch the written consultation in October around the same time as publishing the Partial BRIA. We have had a provisional and informal meeting with the Scottish Landfill Communities Fund Forum to discuss the current working of the Communities Fund on 25 January and have held two stakeholder liaison meetings. The last meeting included the Scottish Environmental Services Association, SEPA, HMRC, Scottish Environment Link, local authorities, COSLA, the Chartered Institute of Waste Management, Forestry Commission, a Distributive Environmental Body (SCORE) and SITA on 7 August 2012. We expect to hold at least one more meeting of this Group before introduction of the Bill.
Business
We intend to have discussions with 8 waste management organisations from the private and public sector during the 12 week consultation period. Discussions with other external bodies will take place during this exercise regarding proposals in the BRIA and those included within the consultation paper.

5. Options

Modelling future impacts on landfilling and recycling activities as a result of changes in taxation rates and regulations is highly complex and will require further investigation in the Final BRIA. For instance, at a macro-economic level it is difficult to isolate the effect that the landfill tax escalator has had on landfilling rates from the impacts of recent recessionary pressures. The set of interactions between recycling, treatment and disposal options operate across the length of the waste hierarchy and modelling outcomes will rely heavily on estimates of own price and cross price elasticity of demand. For example, increasing the higher rate of tax will drive waste from landfill but higher tax rates will also make competing residual waste options more competitive. Depending on the choice of waste treatment option, recycling rates for some products may fall while for others recycling rates could increase. Outcomes will each have different impacts on economic, social and environmental factors.

We plan to outline in the Final BRIA, in table format, the estimated costs and benefits to local authorities, landfill operators, recycling sector, energy from waste sector, the commercial and industrial sector and the construction and demolition sector following additional investigation.

In considering the options outlined below, it is important to be aware that there is no classic “do nothing” option. The Scotland Act 2012 ends the application of the UK landfill tax in Scotland. Each option therefore requires action leading to different benefits and costs. It should also be noted that the UK Government has indicated that it will reduce the Scottish Block Grant at the point of devolving the taxes: this will apply under all three options. Any marginal savings that accrue from the devolution of these taxes will be offset against the cost to the Scottish Government of implementation of the Scottish Rate of Income Tax and therefore are not considered in the options analysis.

The options included for consideration are:

1. **No landfill tax to apply in Scotland – i.e. do not replace the landfill tax when it is withdrawn from Scotland in 2015.**

2. **Maintain a similar landfill tax system as the rest of the UK, set at similar tax rates.**

3. **Maintain similar system as UK model but implement a non-self-assessment model.**
## Option 1

### No Landfill Tax from April 2015

i.e. do not replace the landfill tax when it is withdrawn from Scotland in 2015.

(It is important to note that landfill tax currently exists in Scotland and so this option represents the option of greatest change and is not the „business as usual’ option)

### Sectors and groups affected

In the absence of a Scottish Landfill Tax, there would be impacts across several sectors of the economy. One possible scenario is for an increase in landfilling activities, a fall in recycling rates across a number of waste streams, and for cross-border flows of waste produced in England to landfill sites in Scotland.

The phased implementation of the Waste (Scotland) Regulations 2012 would moderate these possible impacts. By end of 2013, all businesses must source segregate dry recyclables and certain food waste. There are further bans on mixing source segregated materials and on landfilling or incinerating source segregated materials at the end of 2013. By the end of 2015, local authorities must complete a roll out of food waste collection and a ban comes into place on dense plastics and metals passing into incineration. By the end of 2020, biodegradable municipal waste will be banned from landfill.

### Environmental impacts

Higher landfilling activity would have negative impacts on Scotland’s environment. Methane emissions caused by landfilling biodegradable waste will increase. If additional landfill capacity is required, there will be a loss of habitat and biodiversity and an increase in construction traffic, noise and potentially negative impacts on local housing values. During the operational phase, heavy vehicle movements will increase and there is the likelihood that odours, windblown litter and particulate/bioaerosols will be of concern for local communities.

### Waste management industry:

Landfill operators will increase gate fees. By April 2014, active waste going to landfill will face total costs of around £95/tonne (tax of £80/tonne plus average Scottish gates fees of £15/tonne). The withdrawal of the landfill tax in 2015 would make landfilling the cheapest treatment option and create market conditions where landfill operators could increase their fee against an overall falling gate fee. No tax would also allow landfill operators to set gate fees at higher levels taking into account available void space (existing and new landfill site developments) and the costs of competing residual waste treatment.

Depending on the levels at which individual landfill operators set gate fees, English private sector, non-municipal biodegradable waste could flow into Scottish landfills. No modelling for this scenario is available but to indicate an order of magnitude, total non-municipal biodegradable waste landfilled across England is currently around 6 million
tonnes per annum. The costs and benefits of these movements would not be evenly
distributed across Scotland given that 75% of Scottish landfill capacity is located in the
Central Belt and (cross-border) movements would depend on costs per tonne mile.

In the medium term (2015 – 2020) significantly higher levels of landfilling active waste
would require that more inert tonnes be diverted to landfill sites to be used for
engineering purposes. Due to the low cost of inert waste and the relatively high
transportation costs there is less likelihood of cross-border movement from England. It
is feasible that under these circumstances, inert material in Scotland could be drawn
out of recycling operations for use in landfill via negative gate fees (e.g. positive
payments).

Recycling industry:

Landfilling would become the cheapest residual waste management option and the
extent to which other routes such as incineration and Mechanical Biological Treatment
are marginalized would depend on what level landfill gate fees reach. Other areas of
the recycling industry would also become increasingly marginalized without the
backstop provided by the landfill tax. More recyclable materials would be driven down
the cheapest route which is landfill but the phased implementation of Scotland’s ZWP
from 2013 through 2020 would help alleviate the negative effects felt across the
industry.

Local Authorities:

Without the tax, the lowest cost residual waste option for local authorities would be
landfill and the incentive to recycle household waste would be reduced. Four Scottish
local authorities (three by 2015) own and operate their own landfill sites and for these
operations there would be a particularly strong incentive to landfill (higher gate fees
avoided). Volumes of municipal biodegradable waste sent to landfill would be limited
via the EU Landfill Directive (capped at 1.26 million tonnes per annum by 2020). The
ban on sending municipal biodegradable waste to landfill comes into operation from
2021.

Benefits

Scottish landfill operators will substantially increase revenues via higher gate fees for
landfilled tonnes.

No costs to Scottish Government from the implementation of tax collection and
administration systems.

If local authorities adopt the Scottish Government’s favoured approach to meeting
recycling targets and following the Waste Scotland Regulations – one based on high
levels of source segregation and collection – they would save approximately £80m a
year in landfill tax.
**Costs**

Landfill tax revenue would drop to zero in 2015. At present levels of tax receipts, this would imply a reduction in the Scottish Government’s budget of around £100m a year, with corresponding reductions in the volume and/or quality of public services in Scotland. Gate fees for landfill disposal would rise.

Loss of the tax would fundamentally destabilise the market, creating uncertainties for investors, loss of momentum for the next generation of waste and resource infrastructure.

Landfilling waste would be less expensive than recycling and would result in the loss of valuable resources to the Scottish economy. The tax has helped establish the stable policy landscape needed to support long-term investment decisions on waste and resources infrastructure and collection systems. New investment opportunities in recycling infrastructure and associated employment would be undermined. Recent investments in anaerobic digestion, energy from waste, material recovery facilities, new collection systems and new recycling technologies would also be undermined.

By eliminating the need for waste producers to incorporate the full cost of waste disposal into business decisions, Scotland would fall behind the rest of Europe and the UK in the development of sustainable waste management options. The financial savings that can be made through adopting alternatives to landfill tax that are now central to the economics of waste management would be lost.

Environmental costs would rise due to higher landfilling rates in Scotland. More detailed work is required. Further investigation of the full consequences of this will be conducted by Zero Waste Scotland and SEPA and included in the Final BRIA.

The redistribution of payments through the Landfill Communities Fund (LCF) to those most affected by landfilling activities will be lost. Since inception in 1997, payments to Environmental Bodies in Scotland via the LCF are estimated to total £111 million.
**Option 2**

Maintain a similar landfill tax system as the rest of the UK, set at similar tax rates, collected in Scotland.

(It is important to note that landfill tax currently exists in Scotland and so this is the closest option to ‘business as usual’)

**Sectors and groups affected**

Under Option Two a similar landfill tax system existing to that in the rest of the UK including the landfill tax rates regime currently in force, would remain in place in Scotland after 2015. The Waste Scotland Regulations 2012 are phased in across Scotland through 2025. There would be no changes to existing cross-border waste flows from the rest of the UK and it is assumed that there would be little effect on expected trends in the waste sector or wider Scottish economy. The necessary resource to administer the tax using would be a cost to the Scottish Government.

Under this option, a replacement for the LCF would be implemented in Scotland.

**Benefits**

The modelling carried in the „Economic Assessment of the Zero Waste Plan (ZWP) for Scotland‘ demonstrated that the move to the ZWP would not impose additional financial costs compared to a business-as-usual scenario. There is a net financial saving of the order £18 million per annum (almost entirely in Landfill Tax), amounting to £178 million in net present value terms over the period 2011-2025. Landfill tax therefore incentivises and enables actions required under the Zero Waste Plan to becoming a more sustainable society.

Tax administration would be overseen by a new body, Revenue Scotland. Revenue Scotland would work with two established Scottish organisations: Registers of Scotland (RoS) to administer the new land and property tax, and SEPA to administer disposals to landfill. These partnerships would offer further opportunities for us to customise tax collection arrangements that are specific to the Scottish situation, drawing on the relevant knowledge and expertise within RoS and SEPA to eradicate duplication and deliver greater simplicity.

One of the main benefits of SEPA fulfilling a role in administering a landfill tax system in Scotland are the opportunities it affords for linking its existing permitting role for landfill sites with tax collection functions. This could include using existing enforcement staff and site visits to reduce administrative and regulatory burdens on landfill operators. Furthermore, SEPA is already responsible for waste data returns from landfill sites.

The Scottish Government would continue to receive revenue from landfill tax, contributing to the overall Scottish budget.
Costs

The costs associated with this option would be met by the Scottish Government within its overall budget. Estimates of the costs of setting up and operating the 2 devolved taxes have been prepared and placed in the Scottish Parliament Information Centre (SPiCe). As regards landfill tax only, the estimated cost within SEPA of planning for and setting up a self-assessment system for Scottish Landfill Tax administration is estimated at about £540,000 (£100,000 for staff and £440,000 for IT). These costs could be reduced if it proves possible to adapt existing IT systems. Annual running costs within SEPA are estimated at £300,000, of which £250,000 would be staff cost. These costs are estimated on the basis of 70 operational landfill sites in Scotland.

Costs in relation to landfill tax would also arise in respect of setting up and operating Revenue Scotland. These costs would be shared across the devolved taxes for which Revenue Scotland would have responsibility. It is not possible to split these cost estimates between the two taxes. The estimated total cost of setting up Revenue Scotland is £1.7m and the annual running cost is estimated at £2.2m. Were the costs of Revenue Scotland to be attributed to the two taxes broadly by reference to estimated tax revenues, about 26% of costs would be attributed to Landfill Tax. This would give an estimated figure of £442,000 for set up costs for Revenue Scotland and £572,000 a year in operating costs.

Adding these to the estimated costs falling on SEPA, the total public sector costs for set-up would be approximately £980,000, spread over the period 2013 to April 2015; and approximately £870,000 annually thereafter. This would represent less than 1% of Landfill Tax receipts at present levels. Financial provision has been made in the draft Budget for 2013-14 for start-up costs relating to Scotland Act powers totalling £3.5m. The proportion of the total estimated start-up cost of £980,000 that falls in 2013-14 would be met from this provision.

It has been agreed that any offsetting savings realised by HM Revenue and Customs (HMRC) in „switching off” the devolved taxes in Scotland will be passed on to the Scottish Government. HMRC have not as yet been able to provide an estimated savings figure. However HMRC has indicated that such savings are likely to be small because the taxes in question are largely dealt with at present by single teams on a UK basis, with Scottish tax cases accounting for significantly less than 10% of the UK total. HMRC has indicated that they will provide estimates of potential savings, which would not begin to flow until April 2015 at the earliest, as soon as it is possible to do so.

The consultation raises the question of the appropriateness of taxing the disposal of hazardous waste, for example with asbestos there is no other legitimate means of disposing of it and its reuse is prohibited under health and safety legislation. We believe that exempting hazardous material would cost the Scottish treasury £5.5m on average per annum.
Option 3

Maintain similar system as UK model but implement a non-self-assessment model, collected in Scotland.

Sectors and groups affected

Same as Option 2.

Benefits

Same as Option 2, except as follows: Under a non-self-assessment system SEPA would centrally assess landfill tax liability using quarterly returns from operators and issue a tax assessment at the end of the relevant tax period. Benefits of such a system could include less paper work for landfill operators and a stronger linkage between tax liability and what is “tipped” into landfill.

Costs

Same as Option 2, except as follows: The cost to SEPA of setting up a non-self-assessment system for Scottish landfill tax administration is estimated to be higher than the costs for a self-assessment system (Option 2) by approximately £50,000 in respect of start-up costs, and by about £45,000 a year in respect of annual running costs. There is not expected to be any impact on the costs of setting up or running Revenue Scotland. Assumptions about the number of operational landfills in Scotland remain the same.

6. Scottish Firms Impact Test

As previously mentioned, we intend to have discussions with 8 waste management organisations from the private and public sector during the 12 week consultation period. Discussions with other external bodies will take place during this exercise regarding proposals in the BRIA and those included within the consultation paper.

7. Competition Assessment

We have applied the Office of Fair Trading Competition Filter questions and find that the proposals will not directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete nor reduce suppliers’ incentives to compete vigorously.

8. Test run of business forms

Forms needed for the collection of the tax by the tax authorities will be prepared in consultation with Revenue Scotland, SEPA and Landfill Operators. Landfill operators are the only users of current landfill tax return forms.
We will keep open the possibility of merging landfill tax return form with aspects of the Pollution Prevention and Control Permitting returns. We will also look at making the return an online system replacing the paper system currently in operation.

9. Legal Aid Impact Test

Scottish Landfill Tax will be aimed at those operating landfill sites which are either local authorities or large waste management companies. It should therefore have no impact on legal aid.

10. Enforcement, Sanctions and Monitoring

Management of landfill tax will be undertaken by the tax authorities appointed by the Scottish Government. Most of the appeals, civil and criminal provisions will sit within the Tax Management Bill. Further information will be provided in the final BRIA.

QUESTION 16 – BUSINESS REGULATORY IMPACT ASSESSMENT:

Do you have any comments on the draft Business Regulatory Impact Assessment?
Declaration and Publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

[Signature]

Date: 23 October 2012

JOHN SWINNEY, CABINET SECRETARY FOR FINANCE AND SUSTAINABLE GROWTH

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