

Contaminated land - landfill tax exemptions

Waste removed from contaminated land and deposited to landfill is eligible for exemption from landfill tax provided prior certification is received from HMRC. The Chancellor has announced that this relief will be phased out. Applications for new landfill tax exemption certificates must be received by HMRC before 1 December 2008.

Businesses with valid certificates can continue to benefit from the exemption for waste deposited before 1 April 2012. From this date, waste from contaminated land will be liable to landfill tax at the normal rate. Applications for a Certificate of Exemption must be sent to HM Revenue and Customs at Newcastle upon Tyne. Listed below are a few examples of what constitutes eligible and ineligible projects.

Examples of eligible reclamation projects

About these examples

Please note that these examples are only to be taken as illustrative of ones where exemption may apply. Each case will be treated on its own merits and similarity to your circumstances is not to be taken as an indication that exemption will apply.

Example 1

A football pitch is being developed on the site of a disused cokeworks. The area to be developed contains a number of pollutants (including various metals, polyaromatic hydrocarbons and tar). These exceed the threshold levels for parks and open spaces throughout the site and a condition of the planning approval is that they must be cleared before any development can take place. The consultant surveyors have recommended that material be removed to a depth of 1.5 metres to remove the potential for harm, a strategy agreed by the planning authority. This will take place before any construction work commences.

The waste removed will qualify for exemption. It is clear that reclamation of contaminated land is taking place. This involves the removal of pollutants which, if not cleared, would prevent the development from proceeding.

Example 2

An industrial unit is to be constructed on the site of a former unlicensed tip which contains domestic waste. Surveys commissioned by the developer show that due to the lack of control over tipping at the site when it was operational there is a danger of leachate polluting the groundwater and gas emissions which could present a real danger to future employees unless the pollutants are removed.

The waste removed in clearing the land of pollutants will qualify for exemption. It is clear there is a potential for harm and that the development cannot proceed without removal of the pollutants. It does not matter in these circumstances whether or not the developer had to remove more waste than would have been removed in any case to reduce site levels

Examples of ineligible projects

Example 1

A site to be developed was formerly used as a tip for construction waste. The waste is largely inert and there is no evidence that there are pollutants present with a potential to cause harm but the waste is to be removed anyway because the ground is too unstable to support the planned construction.

This will not qualify for exemption as it does not involve the removal of pollutants with the potential to cause harm.

Example 2

A motorway is being constructed through an area of land that contains contamination. This exceeds threshold levels for domestic gardens but not those for buildings or hard cover. Planning conditions dictate that in order to "hide" the road from view of local residents it will be built in a deep cutting. No more waste is being removed than is required to meet this condition and similar contamination is being left on either side of the section being removed.

This will not qualify for exemption because there is no evidence that removal of pollutants is necessary before construction can commence.