



## **Aggregates levy: reinstatement of exemptions [6032]**

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### **Who is likely to be affected?**

Businesses that have been paying aggregates levy since 1 April 2014 on the commercial exploitation of various materials (including slate, shale, clay and spoil from ball and china clay extraction) while the European Commission undertook a State aid investigation into the former exemptions for the materials.

### **General description of the measure**

This measure will repeal the legislation that suspended exemptions from aggregates levy in 2014. All exemptions apart from shale will be restored in full. Shale spoil will continue to be exempt in some circumstances and shale will be relieved when used in specified industrial processes (including when used in brick-making). In addition, a new exempt process relating to shale will be introduced.

Once the legislation comes into force, businesses will be able to claim a refund of any levy paid since 1 April 2014 (with interest) on materials for which the exemption was found by the Commission to be lawful. HM Revenue and Customs (HMRC) will publish a Revenue & Customs Brief later this month to provide more information on the repayment process.

Those businesses that no longer have a liability to pay aggregates levy following reinstatement of an exemption will no longer be required to be registered for the levy.

### **Policy objective**

The reinstatement of exemptions will encourage the recycling of aggregates, and the use of waste and by-products from other processes instead of virgin aggregate.

### **Background to the measure**

On 1 August 2013 the UK was notified of the Commission's decision to open a formal State aid investigation into certain exemptions from the levy. The government at the time was obliged to suspend these exemptions (in some cases partially so that the material was only taxable when used as aggregate) pending the outcome of the investigation. The suspension took effect from 1 April 2014.

On 27 March 2015, the Commission concluded its investigation and decided that the aggregates levy as a whole and the exemptions under investigation were lawful, with the exception of part of the shale exemption. Details of the Commission's decision and the implications for businesses affected were set out in Revenue and Customs Brief 6 (2015) issued on 27 March 2015.

# Detailed proposal

## Operative date

The reinstatement of exemptions will come into force on 1 August 2015 and have effect retrospectively on and after 1 April 2014. The changes to the registration requirements will take effect on 1 August 2015.

## Current law

Sections 16 to 48 of, and Schedules 4 to 10 to, the Finance Act (FA) 2001 as amended (in particular by section 94 of FA 2014, which suspended the levy exemptions) contains the primary legislation for the aggregates levy.

The Aggregates Levy (Registration and Miscellaneous Provisions) Regulations 2001 ('the 2001 Regulations') deal with the requirements to register for aggregates levy.

## Proposed revisions

Legislation will be introduced in Finance (No. 2) Bill 2015 to repeal section 94 of FA 2014 and make certain consequential changes in relation to shale. As a result, the following materials will once again be exempt from the levy regardless of their use:

- clay, coal, lignite and slate
- spoil from the separation of coal, lignite and slate from other rock after extraction
- spoil, waste or other by-products (not including the overburden) from china clay and ball clay extraction or separation
- other industrial minerals, namely: anhydrite; ball clay; barites; china clay; feldspar; fireclay; fluorspar; fuller's earth; gems and semi-precious stones; gypsum; any metal or the ore of any metal; muscovite; perlite; potash; pumice; rock phosphates; sodium chloride; talc and vermiculite
- spoil from the separation of the above industrial minerals from other rock after extraction and
- material that is mainly but not wholly the spoil, waste or other by-product of any industrial combustion process or the smelting or refining of metal.

The legislation will provide that shale is not an exempt material. However, shale that is extracted as by-product of the extraction of some other untaxed materials (e.g. coal) will be exempt as spoil from the separation of rocks after extraction (see above); and shale used in ceramic processes (such as brick-making) will continue to be a relieved industrial process. Where shale is used with limestone in the production of cement it will continue to be used in an exempt process. The legislation will provide for a new exempt process for shale that is used for a purpose other than construction purposes.

The Aggregates Levy (Registration and Miscellaneous Provisions) (Amendment) Regulations 2015, made by the Commissioners for HMRC, will amend the 2001 Regulations to take account of the reinstatement of exemptions. In particular, the instrument will remove for the future the liability to register under the 2001 Regulations in relation to exemptions that are being reinstated. For compliance purposes, it will also reinstate the requirement that businesses notify HMRC where they undertake activities that fall within certain exemptions.

## Summary of impacts

Exchequer impact (£m)	2015-16	2016-17	2017-18	2018-19	2019-20
	Repaying businesses will cost approximately £25 million. The Office for Budget Responsibility has included this in its forecast.				
<b>Economic impact</b>	The measure is not expected to have any significant economic impacts.				
<b>Impact on individuals, households and families</b>	<p>There is no impact on individuals or households because the changes affect businesses which commercially exploit aggregate.</p> <p>The measure is not expected to impact on family formation, stability or breakdown.</p>				
<b>Equalities impacts</b>	The changes are not expected to have any effect on any equalities group.				
<b>Impact on business including civil society organisations</b>	<p>It is estimated that a small number of businesses will experience a reduction in administrative and compliance costs as a result of no longer needing to submit quarterly aggregates levy returns, although there may be some negligible one-off costs associated with submitting a claim for repayment of tax paid since 1 April 2014. For some of these businesses there will also be a one-off cost associated with de-registering from the levy.</p> <p>The measure is expected to have no impact on civil society organisations.</p>				
<b>Operational impact (£m) (HMRC or other)</b>	Any additional costs for HMRC in implementing this change are expected to be negligible.				
<b>Other impacts</b>	<p><u>Rural proofing</u>: increased demand for waste materials for aggregate use from quarries may reduce spoil heaps. This will apply particularly to south west England where there are a large number of china clay and ball clay quarries; and to north west Wales, where there are a large number of slate mines. This could have a slight beneficial impact on wildlife and habitat in those areas.</p> <p><u>Small and micro business assessment</u>: the impact on small and micro sized firms has been considered. The majority of businesses affected will be small or micro businesses – quarries are quite often family-run businesses – although the impact will be small. The benefits of reduced administrative costs will also be felt more by small and micro businesses.</p>				

## Monitoring and evaluation

This measure will be kept under review through communication with affected taxpayer groups.

**Further advice**

If you have any questions about this change, please contact Catherine Osborne on 03000 536971 (email [catherine.osborne@hmrc.gsi.gov.uk](mailto:catherine.osborne@hmrc.gsi.gov.uk)).