



UK Indirect Tax Conference

Environmental Tax Breakout Session

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Agenda

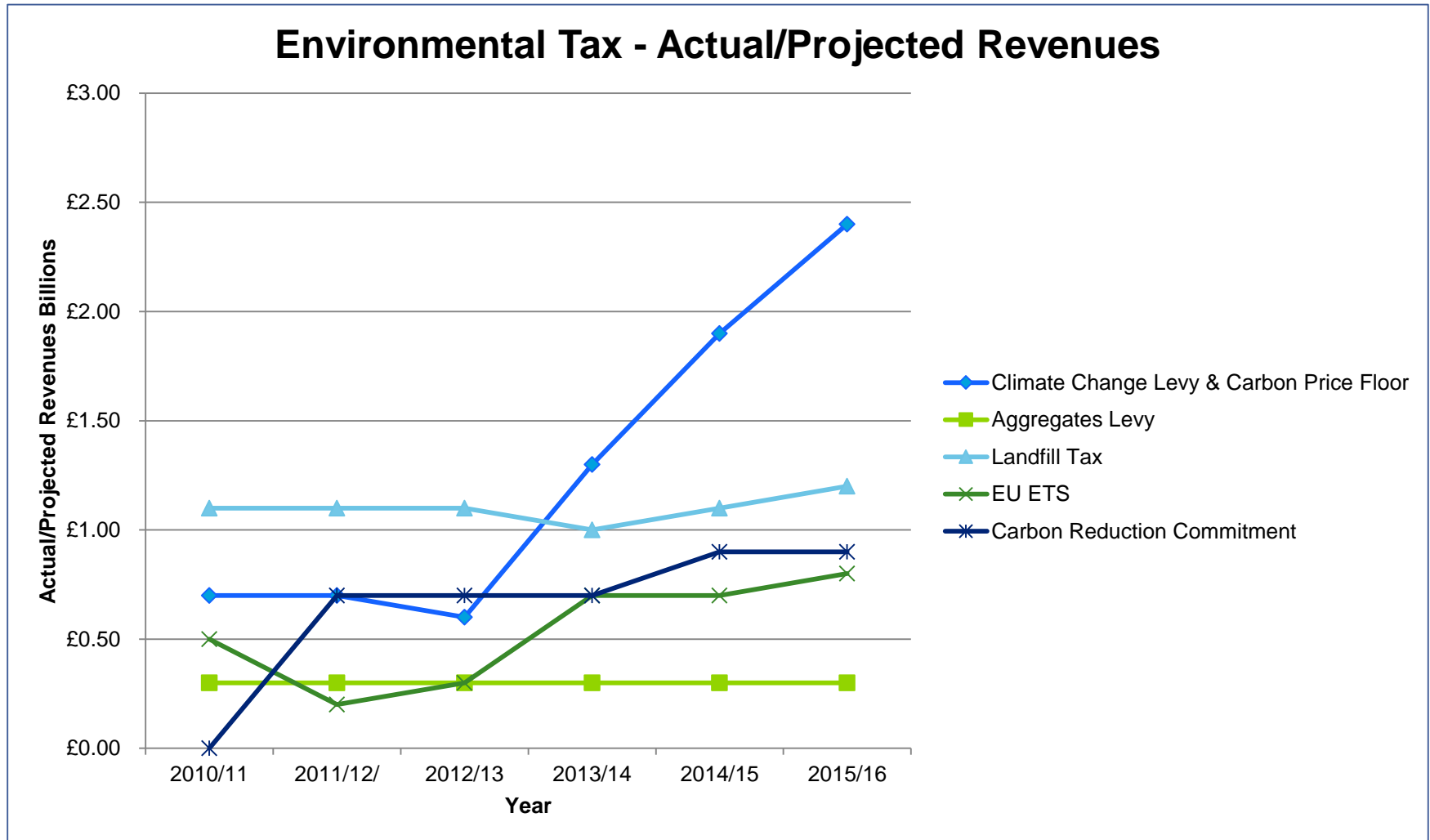
- Environmental Tax Strategy
- News and Developments
- Case Studies
- Q&A

Environmental Tax Strategy

What's your approach?

Environmental Taxes Strategy

Context: why is it important?



Source: Office of Budget Responsibility, Economic & Fiscal Outlook, March 2013

Environmental Taxes Strategy

Context: why is it important?

- Increased application of shortfall penalties
- New appointments in the Policy team of the HMRC Environmental Taxes Unit
- Reputational concerns surrounding environmental taxes

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Energy firms raised prices despite drop in wholesale costs

Bosses face MPs as figures show profit per household went up substantially during times when electricity actually got cheaper

Environmental Taxes Strategy

- Do you know how much environmental tax you pay in the UK?
- What is your approach of managing environmental taxes?
- What processes are in place to ensure that:
 1. Risk is quantified accurately?
 2. Changes in legislation or tax authority policy are proactively captured and implemented?
 3. All of the possible legislative reliefs and exemptions are properly utilised?
 4. That the relevant taxes are considered as part of business decisions?
 5. That the people who manage the environmental tax compliance process are adequately supported and trained?

Environmental Taxes Strategy

- How does your approach tie in with the overall tax strategy and the aims of your business?
- Should your approach factor in customer perception, corporate sustainability agenda, reducing energy costs and increasing overall energy efficiency?
- Is there a case for you to actively participate in consultation processes run by governments and key decision makers?

Environmental Taxes: developing a strategy to manage risk

Environmental Taxes Objectives

Current State

How are environmental taxes managed?

Are registration and reporting requirements met?

Are reliefs and exemptions being applied?

External factors influencing the level of risk

Agreed benchmarks

Gap Analysis

Surveys and interviews with key stakeholders

Practical recommendations

Risk-based approach

Are there any historical exposures – or claim opportunities?

Desired state

Solutions

Ongoing monitoring

Tax team oversight

Keeping up to date on policy changes

Links to existing environmental reporting processes

Environmental Taxes Guide

Environmental taxes workshop

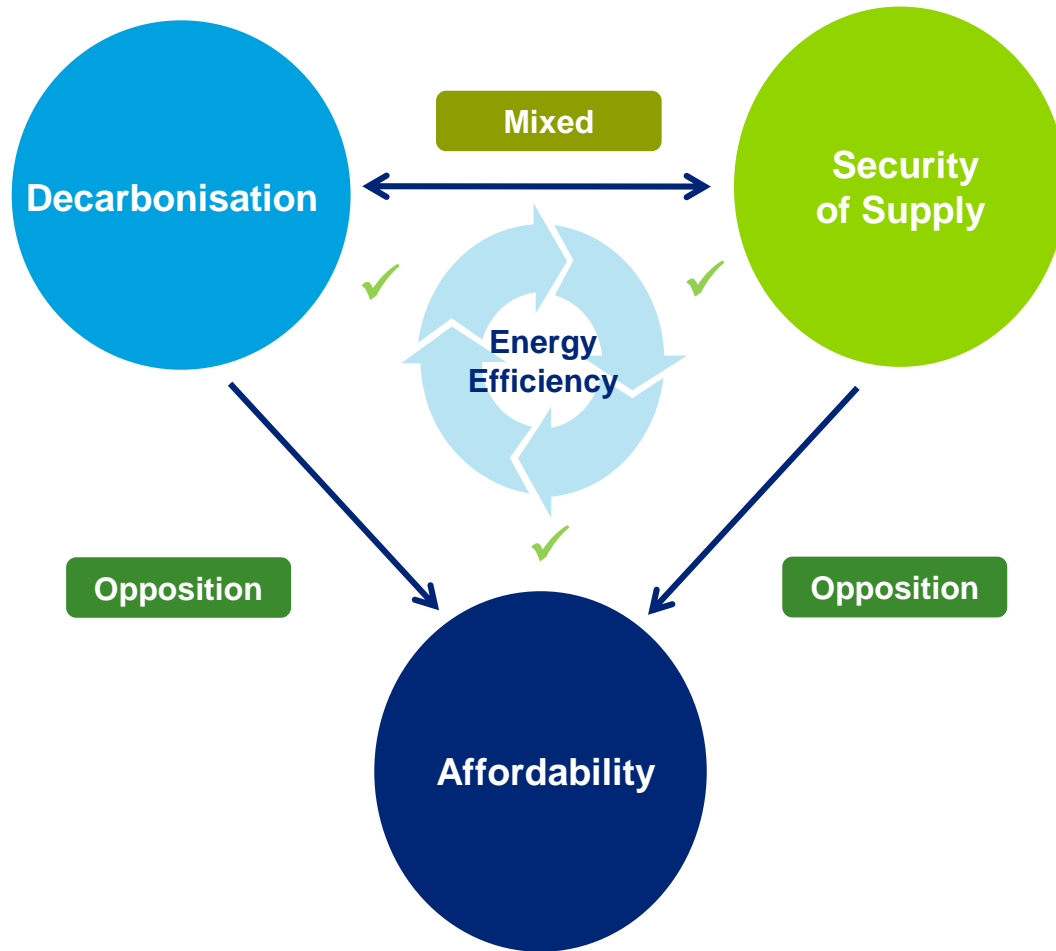
Implementation

Indirect Tax Control Framework

News and Developments

Background: Energy Taxation Policy

A component of national energy policy



- Improving Security of Supply raises costs and prices
- Decarbonisation using low carbon generation is higher cost than conventional leading to higher prices
- Some low carbon options also complicate system resilience (such as wind)
- Energy efficiency is largely consistent with other policy goals but raises prices for most households

Ensuring a 'sustainable' generation mix necessitates some complex trade-offs

News & Developments

UK: Climate Change Levy

- Previous carbon price floor trajectory indicated an increasing gap in the carbon price faced between UK energy users and users abroad
- Result: higher costs/reduction in international competitiveness for UK businesses.
- To combat this, the 2014 Budget announced a reform to cap the UK-only element of the CPF at £18 per tCO₂ from 2016-17 until 2019-20.
- This will result in a slight reduction in the rate from 1 April 2016.
- Exemptions from the main rates of CCL for energy used in metallurgical and mineralogical processes from 1 April 2014.
- Companies withdrawing from the CCA scheme liable to enrol in the CRC.

News & Developments

UK: Landfill Tax

- For disposals made from 1 April 2014 onwards, standard rate increased to £80 per tonne for active waste (lower rate of landfill tax remains £2.50 per tonne for qualifying inert materials).
- Government has stated that the standard rate will not fall below £80 per tonne until at least 2020 – future increases ‘in line with RPI’?
- **Scotland LFT:** Proposed rates from 1 April 2015 – aligned to UK (standard rate of £82.60 per tonne and lower rate of £2.60 per tonne).
- Policy objectives: removing risk for ‘waste tourism’.
- **Welsh LFT:** From April 2018, Wales will have control over setting and collecting its own landfill tax. In 2012/13, LFT revenues from Welsh landfill sites was circa £50m. Plans to be debated further in Parliament before law is passed.

News & Developments

UK: Aggregates Levy

On 1 August 2013, the UK Government received notification that the European Commission would open a formal investigation into certain exemptions, exclusions and tax reliefs from the aggregates levy. During the ongoing investigation, the following exemptions were made taxable from 1 April 2014:

- Aggregate that is wholly of the spoil, waste or other by-products (not including the overburden) resulting from the extraction or other separation from any quantity of aggregate of any china clay or ball clay.
- Aggregate that is wholly of the spoil from any process by which:
 - coal, lignite, slate or shale; or
 - any substance listed in FA 2001, s 18(3)

has been separated from other rock after being extracted or won with that other rock.

News & Developments

UK: Aggregates Levy

- The Treasury has announced that the Commission has amended its decision on whether the UK's aggregates levy credit scheme amounts to an illegal state aid.
- The scheme provides an 80% tax credit for quarry operators in Northern Ireland.
- The Commission originally approved the scheme in 2004 but reopened its "state aid" investigation following a legal challenge by the *British Aggregates Association*.
- This approval has now been reaffirmed the original approval which ends the uncertainty for operators in Northern Ireland. The Government will seek to reinstate the scheme after taking required steps: including allowing a reimbursement period for levy charged on imports into Northern Ireland.

News & Developments

Air Passenger Duty / Aviation Taxes

- 2014 Budget: Bands B, C and D to merge from 1 April 2015
- Higher rates for private jets: six times the lower rate
- Calls for further reform remain
- Germany: legal challenge to the German Air Passenger Duty has been unsuccessful
- Does not breach the principle of equality nor the fundamental right of freedom to exercise a trade or profession (of either the airlines or the passengers)

News & Developments

Europe: Environmental Tax Challenges

A theme of legal challenges

- Successful challenges around the legality of certain taxes.
- *Transportes Jordi Besora – IVMDH on retail hydrocarbon sales:*
 - *“such a tax cannot be regarded as pursuing a specific [non-budgetary] purpose **where that tax**, intended to finance the exercise by the regional or local authorities concerned of their powers in the fields of health and the environment, **is not itself directed at protecting health and the environment**”.*
- Wider application: Polish fuel duty?
- French Green Levy or CSPE (*Vent de Colère*) – levy offsetting the obligation to purchase wind-generated electricity at a higher price than market price is a State Aid.

News & Developments

European & Global: UN Climate Summit

New climate goals adopted

- In September 2014 at the Climate Summit at the UN headquarters, Government leaders committed to reach a universal climate change agreement, to be adopted in Paris in 2015 and to enter into effect in 2020.
- Many countries announced their own climate goals, targets and initiatives during or before the Summit.
- Amongst these, the European Union announced in January 2014 a reduction in 1990 levels of greenhouse gas emissions by 40% by 2030 (alongside a renewable energy target).

News & Developments

Europe: Energy Taxation Directive

Progress report

- Background: Commission proposed overhaul taxation of energy products and electricity in the EU.
- October: Ministers in Europe held orientation debate to progress discussions on the revision of the Energy Taxation Directive.
- Proposal has not received unanimous support following discussions at the Council level.
- Compromise proposals: no longer in line with original objectives (e.g. taxing based on emissions and energy content).
- No sign of compromise by the Member States to even slightly amend the rules to align with existing EU energy and climate change objectives.
- The Commission is disappointed with the outcome and may seek further intervention in due course.

News & Developments

Europe: Landfill Taxes

Review of European frameworks

- 2 July 2014: European Commission adopted a legislative proposal to review recycling and other waste-related targets
 - EU Waste Framework Directive 2008/98/EC
 - Landfill Directive 1999/31/EC.
- The proposal included phasing out landfilling by 2025 for recyclable waste in non-hazardous waste landfills; and
- the introduction of measures aimed at reducing food waste generation by 30% by 2025.
- The Commission will assess the feasibility of the proposals and issue a report presenting its conclusions by 2018.

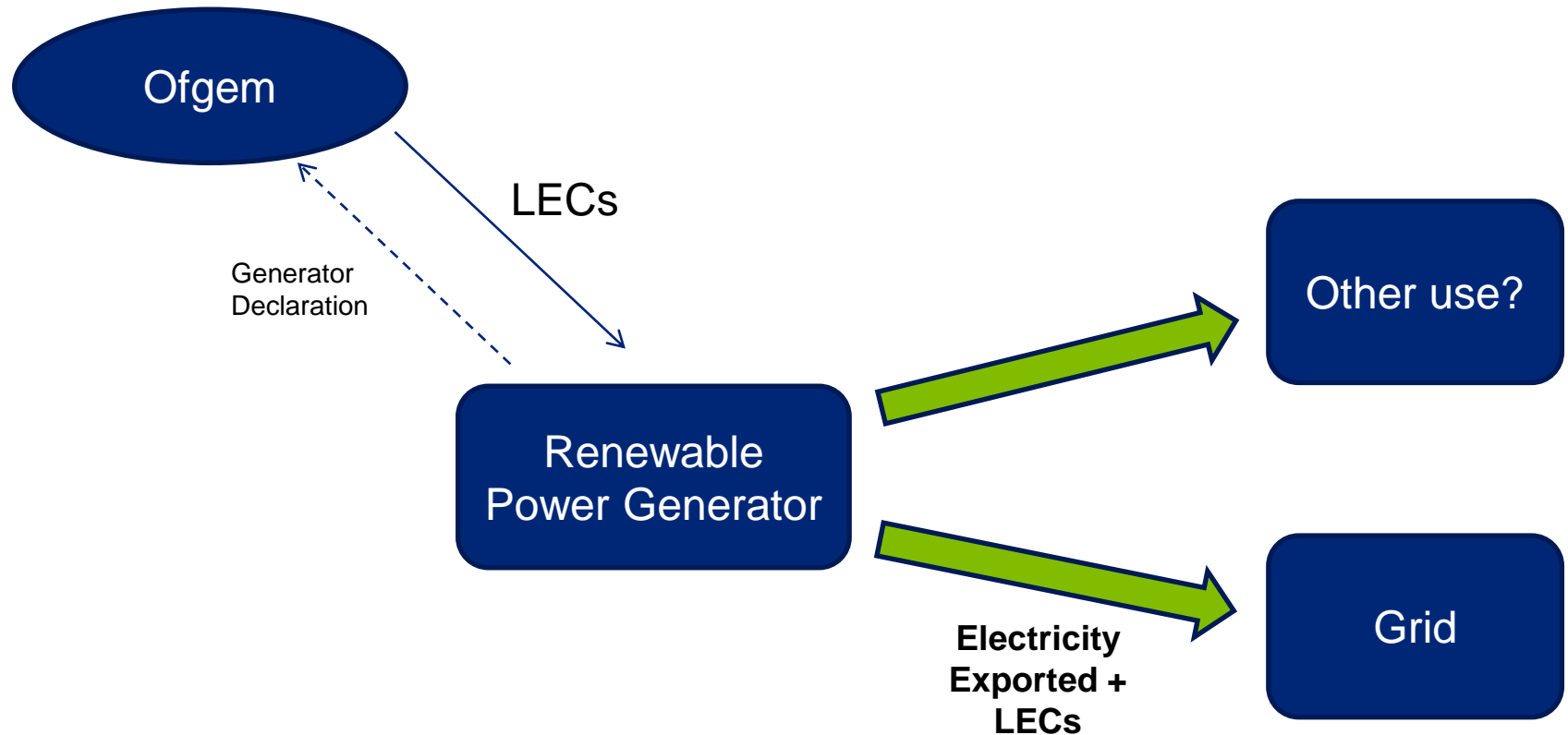
News & Developments

European & Global

- The European Commission has published its annual report (Tax Reforms in EU Member States 2014) of the most important tax reforms implemented by EU Member States and identifies the main tax policy challenges they are facing.
- The report suggests that environmental tax revenues could be increased to not only facilitate growth but also a strategy for environmental tax policy.
- A challenging tax policy trade-off: implementing a tax which generates revenue, facilitates growth and also has a positive effect on environmental policy.

Case Studies

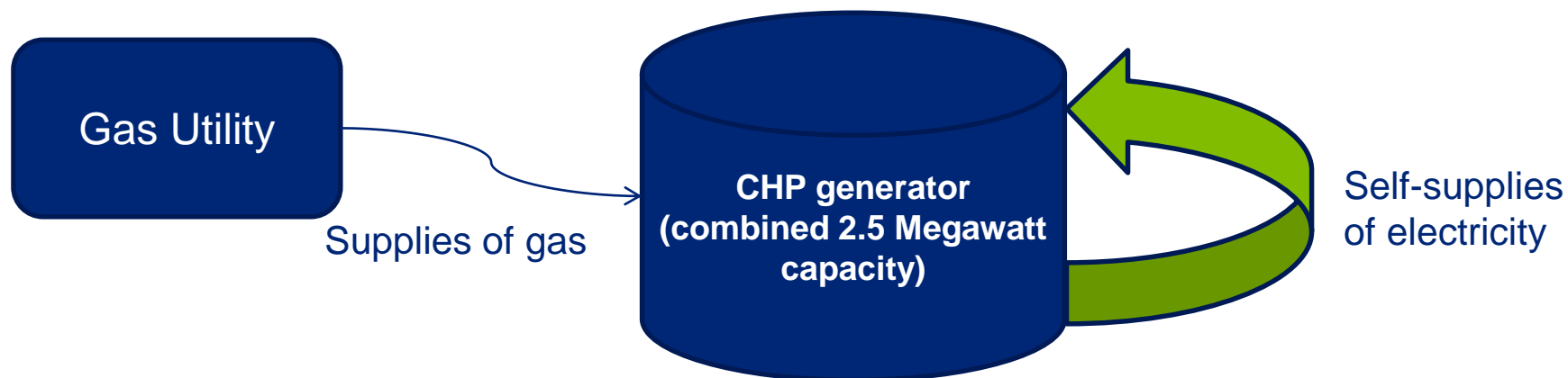
Case Study 1 – CCL and Levy Exemption Certificates (LECs)



Discussion Points:

1. In what circumstances might number of LECs issued differ from the quantity of electricity transferred onto grid?
2. Which party in the supply chain holds the primary responsibility to monitor?
3. What are the appropriate remedies?

Case Study 2 – Carbon Price Floor Legislation



Background:

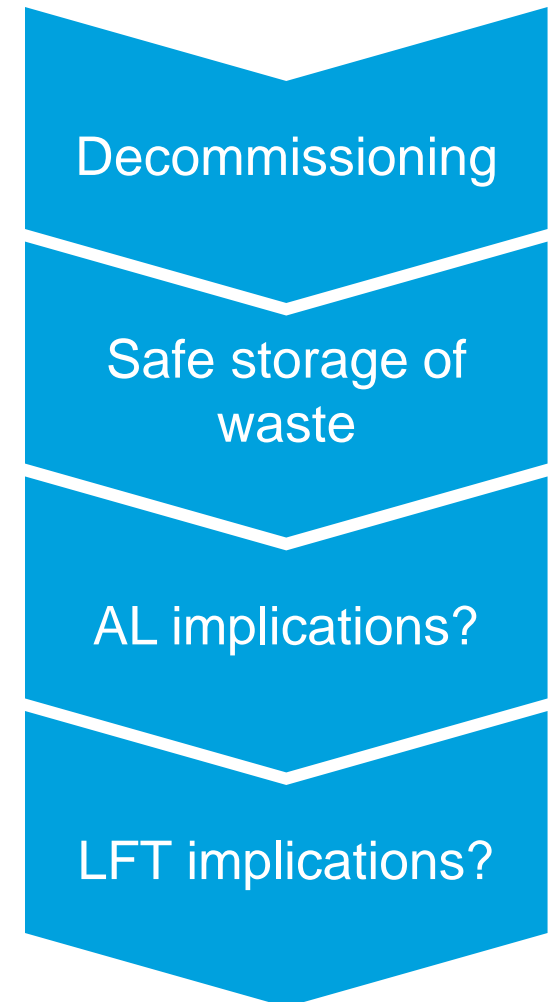
- Gas-fired CHP generator
- All electricity produced is self-consumed - no supplies made to either the Grid or to another customer.
- Not a standby generator.
- No CCL registration in place for the generator and CCL charged at the main rates by gas utility.

Discussion points:

1. Is a CCL registration required under the provision of the CPF legislation?
2. Should the gas utility charge CCL at the main rates? What are the requirements to demonstrate exemption?

Case Study 3 – Exemption from Aggregates Levy (AL) and Landfill Tax (LFT)?

- Decommissioning of a nuclear site requires providing safe management of radioactive waste.
- Requirement to construct storage facilities for the safe storage of radioactive waste.
- What is the AL treatment for the aggregate extracted for the construction of the storage facilities (“vaults”) to deposit the waste?
- Are the activities likely to trigger a LFT registration on the basis of material used in the construction of the vaults?



Case Study 4 – Errors and Penalties

Current HMRC focus on on-site usage / self-supplies

- May give rise to a CCL registration
- Failure to notify HMRC – what are the implications for assessments?
- Penalties – and which regime?
- Penalty interest
- When is there a ‘reasonable excuse’?

Q & A



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