

Confusion could mean taxation

The Government is not clear on how aggregate used in construction should be taxed



MATERIALS

MICHAEL HUNTER

Most aggregate used by contractors has already been subject to the aggregates levy - normally because it has been bought from a quarry operator and the sale triggered the tax.

However, there are some circumstances where companies will use aggregate that does not derive from a commercial quarry, such as where it has been won on site. At the current rate of £1.95 per tonne, using 500,000 tonnes of on-site aggregate could result in a tax bill of almost £1 million.

If the aggregate in question is on the same site, does not involve it being mixed with any other substance and results in the aggregate becoming part of the land again, then it should be exempt. But the Government's current perception is that this exemption does not apply where construction is the use to which the aggregate is being put. This view goes against its own published guidance.

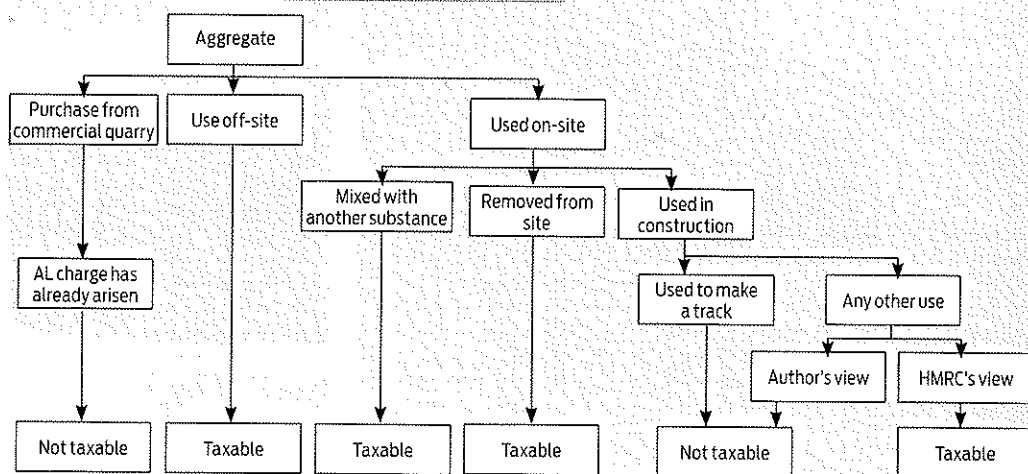
In paragraph 2.3 of AGL1, HMRC says: "Aggregate used for construction purposes at a registered site is taxable, but aggregate returned to the land at that site, in the same state that it was won is not taxable. Returning to the land includes using unmixed, dry aggregate to make tracks or paths within the boundary of the registered site."

However, in May HMRC issued a revised AGL1 which includes:

"Project managers will need to be very wary about what they do with on-site aggregate"

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ON-SITE AGGREGATE: WHAT MIGHT BE TAXABLE



include aggregate used for the construction of buildings, roads or other construction type projects..."

The problem with this is that using aggregate to make a track or path (which HMRC indicates is exempt) is also treated as using aggregate in construction.

With no clear guidelines as to what HMRC would or would not consider to be "returning to the land", it is difficult to see on what criteria it would base its judgment. The practical answer for now is to make sure that the cost can be passed on to the party which should be bearing it such as the employer, by making sure that a contract deals with the point.

Fortunately, there may be judicial authority on this point later on in the year. Until then project managers will need to be very wary about what they do with on-site aggregate. The diagram above helps to explain what might be taxable.

Project managers should always get appropriate legal advice before taking any decisions relating to aggregates levy.

Michael Hunter is a partner at Pinsent Masons

Fire curtains are an alternative to rigid barriers



MATERIALS

ARTHUR NELMES

Fire barriers isolate work which takes place in an enclosed area next to a live building. They are designed to resist the spread of fire and smoke and provide a safe exit for the public.

An existing party wall can act as a natural fire break. However, if none is present, a rigid barrier from brickwork, blockwork or a dry-lined wall can be built.

Dry-lining systems typically consist of two sheets of plaster-board treated with a fire-resistant substance and fixed to a steel frame. A fire curtain - a roller blind of fire retardant material - can provide a more flexible and economical alternative. If integrated into a building's fire alarm system it can be activated in the event of a fire by a battery pack.

But they are not considered aesthetically pleasing and their

permanent application is typically confined to concealed spaces. However, they have been used where a large temporary barrier is needed to separate construction work from a 'live' area.

The curtain will typically be supplied in 1 m-wide strips which are attached to the top and bottom of the building and stapled together to form a smoke-tight partition. Sections of the curtain can easily be removed or rolled up.

They can be supplied and installed at less than a quarter of the cost of a dry-lined barrier and they perform as well as a solid partition. They provide a fire rating of up to 90 minutes.

Fire curtains may not be appropriate for projects involving a high fire risk, with security issues or carried out at height where building regs require a fire break rating of more than two hours.

While they can be reinforced to withstand differentials in ambient pressures, for example where the 'live' side is air-conditioned, they should only be used in enclosed locations and never exposed to the elements.

Arthur Nelmes is co-founder and managing director of fire protection firm System Building Services