

'Harnessing the potential of the UK's natural resources: a fiscal regime for shale gas' - HM Treasury consultation

Joint response from Friends of the Earth (England, Wales and Northern Ireland) and Friends of the Earth (Scotland)

This is a brief response to the above consultation.

Technically it may not be considered a response at all, as we do not respond directly any of the questions set out in the consultation. But we think it is important to take this opportunity to raise a number of points about the consultation itself and the wider context within which it sits.

Our organisations are opposed to the development of shale gas in the UK. We consider that enthusiastically adopting shale would actively hinder the UK's decarbonisation efforts, keeping us hooked on fossil fuels instead of encouraging investment in an energy system built around energy saving and renewable technologiesⁱ.

While it is our firm position that shale gas tax breaks should not be given in any form, the point for these purposes is broader. The present consultation is the first public and open consultation on the proposed tax regime: yet the tax breaks are presented as a *fait accompli*. None of the questions are interested in *whether* fossil fuels like shale gas should be given tax breaks.

For an issue as important as tax breaks for fossil fuels, this is completely inappropriate. Fracking has already managed to become an extremely controversial issue, at local and national levels. 30% of the public oppose it, with another 26% undecided (with the proportion against rising to 40% when people are invited to consider fracking in their local areas)ⁱⁱ. So whether to give tax breaks to encourage shale development is not a straightforward taxation decision. And with climate change a stark threat, what financial incentives the government chooses to give to energy is a matter of critical public interest.

At a much earlier state of the policy process, HMT should have publicly consulted on whether stakeholders consider reducing the tax payments of fossil fuels like shale gas to be appropriate at all.

HMT/HMRC principles for tax consultation (March 2011) state: "The Government is committed to **early** and continuous engagement with tax changes and to exploring new ways of **broadening public engagement with development of the tax system**"ⁱⁱⁱ. The Cabinet Office's consultation principles (March 2012) state clearly that "engagement should begin **early** in policy development **when the policy is still under consideration and views can genuinely be taken into account**"^{iv}. The Aarhus Convention, which enshrines the rights of the public to participate in environmental decision-making, notes that "arrangements are to be made by public authorities to **enable the public affected and environmental non-governmental organisations to comment** on, for example, proposals for projects affecting the environment"^v (our emphases). We

believe that these documents all imply that earlier consultation would have been appropriate.

Full public consultation should have happened before the Chancellor publicly announced his intention to introduce a "generous" tax regime for shale at the Conservative party conference in early October last year. It has not been revealed what consultation the Chancellor had undertaken in reaching this decision. Friends of the Earth has asked HMT for a list of statistical data underpinning the Chancellor's original announcement of a generous tax regime for shale gas. This has not been provided.

An FOI response to Friends of the Earth revealed that the first "introductory" meeting between HMT and representatives of the industry to discuss shale gas taxation took place some weeks after (on 5 November) the Chancellor's announcement. That is, as far as the external observer can tell, shale gas tax breaks were announced before HMT could realistically have had much idea whether the industry in fact needed them.

Informal consultation since has taken place between the industry and HMT behind closed doors. 19 meetings have been held since October 2012, as revealed to Friends of the Earth via FOI, yet HMT would reveal nothing about with whom these meetings were held, or what was discussed. Even within the present consultation, responses are being particularly sought from "companies involved in exploration for, and production of oil and gas in the UK and on the UK continental shelf".

This is a critical moment in energy policy, coming amidst, for example, debates about when and whether to adopt a 2030 target for decarbonising electricity. Our economy stands at the fork of two paths: one carbon-intensive, one low-carbon. Ernst and Young warned in August 2013 that would-be clean energy investors are discouraged by apparent ambivalence from government about how dependent upon fossil fuels it wishes the UK to be^{vi}. There is a significant opportunity cost for clean energy investment caused by the practice and the principle of publicly championing and incentivising fossil fuels such as shale gas.

It is a matter of regret that the only public consultation HMT is conducting on these tax breaks is on how they should work – not whether they are a wise policy to pursue in the first place.

Friends of the Earth (England, Wales & Northern Ireland)
Friends of the Earth (Scotland)

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ⁱ For more information, see Friends of the Earth (May 2013), 'Unconventional, unnecessary and unwanted', at http://www.foe.co.uk/resource/briefings/shale_gas.pdf

ⁱⁱ The Guardian (August 2013), 'Fracking splits public opinion down the middle, poll finds', at <http://www.theguardian.com/environment/2013/aug/13/fracking-splits-public-opinion-icm-poll>

ⁱⁱⁱ HMT/HMRC (2011), 'Tax Consultation Framework', at <http://www.hmrc.gov.uk/consultations/tax-consultation-framework.pdf>

^{iv} Cabinet Office (2012), 'Consultation Principles', at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/60937/Consultation-Principles.pdf

^v European Commission (1998), Aarhus Convention, <http://ec.europa.eu/environment/aarhus>

^{vi} Ernst & Young (August 2013), Renewable Energy Country Attractiveness Index, [http://www.ey.com/Publication/vwLUAssets/Renewable_energy_country_attractiveness_indices_-_Issue_38/\\$FILE/RECAI%20Issue%2038_August%202013.pdf](http://www.ey.com/Publication/vwLUAssets/Renewable_energy_country_attractiveness_indices_-_Issue_38/$FILE/RECAI%20Issue%2038_August%202013.pdf)