

From: [McClure, Brian](#)
To: [Brennan, Mike](#)
Cc: [Sullivan, Colin](#); [McAvoy, Andrew](#); [Morelli, Emer](#); [Connolly, Samuel](#); [Simpson, Tony](#); [Scott, Michelle](#)
Subject: Re: Rates - RHI boilers
Date: 22 December 2016 09:33:17

Thanks Mike

I can imagine what Minister was like yesterday about leaks.

Do you agree with buying 'volunteers' out and paying them over 5 years, to avoid shock to PE? Or would it be better to borrow and pay them off in one go?

Public mood may encourage volunteers, as well as risk of State Aid clawback in future. I know Emer is concerned that state aid position is uncertain - it usually is. We can exploit that and at least give the scheme's excessive heat producers cause to worry.

Regards, Brian

Sent from my BlackBerry 10 smartphone.

From: Brennan, Mike
Sent: Wednesday, 21 December 2016 18:57
To: McClure, Brian
Cc: Morelli, Emer; Scott, Michelle; Sullivan, Colin; McAvoy, Andrew; Connolly, Samuel; Sterling, David
Subject: RE: Rates - RHI boilers

Brian - apologies for not responding earlier but dealing with a rather angry Minister on RHI (giving off about leaks to media!)

I wonder if your suggested commentary to scheme participants might be combined with notification of imminent inspections of all successful applicants? (reinforces the point that change is inevitable one way or another)

Emer / Michelle – can you put this suggestion to DfE colleagues as they prepare the business case on inspections

Thanks

M

From: McClure, Brian
Sent: 21 December 2016 17:34
To: Brennan, Mike
Cc: Morelli, Emer; Scott, Michelle; Sullivan, Colin; McAvoy, Andrew; Connolly, Samuel; Sterling, David
Subject: Re: Rates - RHI boilers

I would have thought someone would have extended me the courtesy of responding to

this. It's an idea for an interim solution without risk of challenge and it doesn't preclude full closure at some point in future.

Occam's razor approach may be good politically but it's not necessarily good for the public purse.

If there are legal or technical reasons why it wouldn't work, that's fine

Brian

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From: McClure, Brian
Sent: Wednesday, 21 December 2016 11:29
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Cc: Morelli, Emer; Scott, Michelle; Sullivan, Colin; McAvoy, Andrew; Connolly, Samuel; Sterling, David
Subject: RE: Rates - RHI boilers

Another thought Mike

Why doesn't DfE write to all scheme participants **now** ?

Advise them that "the Department, DfE, is under an obligation to notify you that the scheme is flawed. Providing a subsidy for production of useless energy contravenes EU Environmental Aid Guidelines, which means the scheme is non compliant with State Aid rules. As such the UK Government, as Member State, is at serious risk of infraction which would place a requirement on the Government to recover excessive payments made under the scheme to date from recipients."

The NI Executive, however is prepared to allow you to withdraw you from the scheme now and cover the reasonable costs incurred by you (less any betterment?) over a 5 year period (or whatever).

This will of course be a voluntary thing but those that choose to ignore it carry the risk. It should also serve to moderate consumption of useless energy.

I appreciate some of this is AME funded but I am sure arrangement could be reached.

Brian

From: McClure, Brian

Sent: 21 December 2016 10:38

To: Brennan, Mike

Cc: Morelli, Emer; Scott, Michelle; Sullivan, Colin; McAvoy, Andrew; Connolly, Samuel; Sterling, David

Subject: Re: Rates - RHI boilers

And it would be the unworthy beneficiaries of the scheme who would have to repay.

DfC could legitimately write to everyone on the scheme now and alert them to the prospect - the threat in itself should help curb costs.

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From: McClure, Brian

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Subject: RE: Rates - RHI boilers

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From: Brennan, Mike

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Subject: Re: Rates - RHI boilers

Brian - thanks - another exit closes!

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Subject: RE: Rates - RHI boilers

Mike

See LTTs drafted this morning for Nolan

Lines to take – Business Rates – RHI Recovery

- Business rates are a property tax, which currently must be assessed for everyone on the same basis with reference to the rental value of an individual property.
- The system can't therefore discriminate. For example, between those who have acted responsibly within the terms of the RHI scheme and "excessive" heat producers.
- It could, in some circumstances, be employed to rate empty agricultural sheds which are burning heat needlessly and which are currently getting agricultural exemption (though, in practice this will be relatively easy to avoid if the owner puts livestock or agricultural equipment or produce into an empty shed).
- The starting point for an assessment of how the rating system could assist is a full list of the recipients of the RHI scheme so that this could be cross-referenced against the Land & Property Services property data.

You could, in theory, do [what you suggest](#) through out plant and machinery regulations but how you would target excessive heat producers is another matter. If this is pursued I may retire, because I will spend the rest of my life in the courts !

State Aid clawback is the way. See my note to David below

Brian

From: McClure, Brian
Sent: 20 December 2016 12:15
To: Sterling, David
Subject: Re: Proposal

David.

Do not raise you hopes about what we can do. We may be able to get a few empty chicken sheds rated, that currently get agricultural exemption (many will suddenly put livestock into them) but as rates are a property tax we can't do anything about the "useless" heat producers, the commercial premises burning wood pellets 24/7 at height of summer with the windows open.

On this last point, though, the State aid derogation may allow us to over-ride the

contract, because scheme was approved on basis of "that certain conditions on the type and intensity of use are respected" and that "it does not lead to overcompensating". http://europa.eu/rapid/press-release_IP-12-594_en.htm

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What would be involved if the Executive decided to impose a rates precept of some sort on RHI non-domestic boilers? Would it require legislation or could it be a 'bolt on'?

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Subject: RE: Rates - RHI boilers
Date: 22 December 2016 09:55:46

Brian – it all depends on how we engage with HMT and what flexibility we have on reclassification. Ideally we would want to buy out the volunteers as quickly as possible.

M

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