



# Landfill Disposals Tax (Wales) Act 2017

2017 anaw 3

## PART 5

### SUPPLEMENTARY PROVISION

#### CHAPTER 6

##### SPECIAL CASES

###### *Corporate groups*

#### **77 Designation of group of companies**

- (1) WRA may designate two or more bodies corporate as a group for the purposes of the tax.
- (2) A designation is made by issuing a notice to each member of the group.
- (3) The notice must specify—
  - (a) the bodies corporate that are members of the group;
  - (b) the member of the group that is the representative member;
  - (c) the date on which the designation takes effect.
- (4) The effects of designating a group are that—
  - (a) the representative member of the group is to be treated for the purposes of the tax as the operator of each authorised landfill site of which a member of the group is the operator;
  - (b) accordingly, a relevant amount that a body corporate would otherwise be required to pay as a result of anything done or omitted to be done while it is a member of the group must instead be paid by the representative member;
  - (c) all of the following are jointly and severally liable for any of the relevant amount that remains unpaid after the date by which the representative member was required to pay it—

*Status: Point in time view as at 01/04/2018.*

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- (i) each body corporate that was a member of the group at the time of the act or omission that gave rise to the requirement to pay the amount, and
  - (ii) any other body corporate that was a member of the group on the date by which the representative member was required to pay the amount.
- (5) WRA may designate a group of bodies corporate only on the application of one or more of those bodies.
- (6) An application to designate a group must be made in writing; and the body or bodies making the application must satisfy WRA that it is made with the agreement of every other proposed member of the group.
- (7) If WRA refuses an application to designate a group, it must issue a notice of its decision to the body or bodies that made the application.
- (8) In this section, “relevant amount” means—
- (a) an amount of tax;
  - (b) a penalty under an enactment relating to the tax;
  - [<sup>F1</sup>(ba) an amount payable in respect of a tax credit;]
  - (c) interest on an amount within paragraph (a)[<sup>F2</sup>, (b) or (ba)].

#### Textual Amendments

- F1** S. 77(8)(ba) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 5\(a\)](#)
- F2** Words in s. 77(8)(c) substituted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 5\(b\)](#)

#### Commencement Information

- I1** S. 77 in force at 25.1.2018 by [S.I. 2018/35](#), [art. 2\(w\)](#)

## 78 Conditions for designation as member of group

- (1) A body corporate may be designated as a member of a group only if—
- (a) it carries out taxable operations or intends to do so, and
  - (b) it is under the same control as every other member of the group.
- (2) Two or more bodies corporate are under the same control if—
- (a) one of them controls all of the others,
  - (b) one body corporate or individual controls all of them, or
  - (c) two or more individuals carrying on business in partnership control all of them.
- (3) For the purposes of subsection (2)—
- (a) one body corporate (“A”) controls another body corporate (“B”) if—
    - (i) A is empowered by or under an enactment to control B's activities, or
    - (ii) A is B's holding company;
  - (b) an individual or individuals control a body corporate if they would, if they were a company, be the body's holding company.

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- (4) In subsection (3), “holding company” has the meaning given by section 1159 of, and Schedule 6 to, the Companies Act 2006 (c. 46).

**Commencement Information**

**I2** S. 78 in force at 25.1.2018 by S.I. 2018/35, art. 2(w)

**79 Variation or cancellation of designation**

- (1) Where two or more bodies corporate have been designated as a group, WRA may—
- (a) vary the designation of the group by—
    - (i) adding or removing a member;
    - (ii) changing the representative member;
  - (b) cancel the designation of the group.
- (2) But WRA must—
- (a) vary the designation of a group by removing a member if it is satisfied that the member does not meet the conditions in section 78(1);
  - (b) cancel the designation of the group if it is satisfied that the group does not have two or more members that meet those conditions.
- (3) The variation or cancellation of a designation is made by issuing a notice to each member of the group (including, in the case of a variation to add or remove a member, each member that is added or removed).
- (4) The notice must—
- (a) set out the details of the variation or cancellation, and
  - (b) specify the date on which it takes effect.
- (5) WRA may vary or cancel the designation of a group—
- (a) on an application made in writing under this section, or
  - (b) on its own initiative.
- (6) An application to vary or cancel the designation of a group may be made by the representative member of the group; but the representative member must satisfy WRA that the application is made with the agreement of every other member of the group (including, in the case of an application to vary the designation by adding a member, the member that would be added if the variation were made).
- (7) An application to vary the designation of a group by removing a member may also be made by the member that wishes to be removed; in which case that member must satisfy WRA that every other member of the group has been notified of the application.
- (8) If WRA refuses an application to vary or cancel a designation, it must issue a notice of its decision to the body corporate that made the application.

**Commencement Information**

**I3** S. 79 in force at 25.1.2018 by S.I. 2018/35, art. 2(w)

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## **80 Reviews and appeals relating to designation of groups of companies**

In section 172 of TCMA (appealable decisions), in subsection (2), after paragraph (j) (inserted by section 58 of this Act) insert—

“(k) a decision relating to the designation of a group of bodies corporate for the purposes of landfill disposals tax.”

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### **Commencement Information**

**I4** [S. 80](#) in force at 25.1.2018 by [S.I. 2018/35](#), [art. 2\(w\)](#)

## **81 Power to make further provision about designation of groups of companies**

- (1) Regulations may add to, repeal or otherwise amend any provision made by an enactment relating to the tax about the designation of groups of bodies corporate.
- (2) The regulations may (among other things) make provision about the bodies corporate that may be designated as members of a group and about the effects of designation.

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### **Commencement Information**

**I5** [S. 81](#) in force at 25.1.2018 by [S.I. 2018/35](#), [art. 2\(w\)](#)

**Status:**

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**Changes to legislation:**

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