



Landfill Tax (Scotland) Act 2014

2014 asp 2

PART 3

ADMINISTRATION

Taxable activities

21 Taxable activities

- (1) A person (P) carries out a taxable activity if—
 - (a) P makes a taxable disposal in respect of which P is liable to pay tax, or
 - (b) P permits another person to make a taxable disposal in respect of which P is liable to pay tax.
- (2) Where—
 - (a) a taxable disposal is made, and
 - (b) it is made without the knowledge of the person who is liable to pay tax in respect of it,the person is, for the purposes of this section, to be taken to permit the disposal.

Registration

22 Registration

- (1) The Tax Authority must keep a register containing such information as the Tax Authority thinks is required for the purposes of the collection and management of the tax.
- (2) A person who—
 - (a) carries out taxable activities, and
 - (b) is not registered,is liable to be registered.
- (3) Where—
 - (a) a person at any time forms the intention of carrying out taxable activities, and

- (b) the person is not registered,
the person must notify the Tax Authority of that intention.
- (4) A person who at any time ceases to have the intention of carrying out taxable activities must notify the Tax Authority of that fact.
- (5) Where a person is liable to be registered by virtue of subsection (2), the Tax Authority must register the person with effect from the time when the person begins to carry out taxable activities (whether or not the person notifies the Tax Authority under subsection (3)).
- (6) Where the Tax Authority is satisfied that a person has ceased to carry out taxable activities it may cancel the person's registration with effect from the earliest practicable time after the person ceased to carry out taxable activities (whether or not the person notifies the Tax Authority under subsection (4)).
- (7) Where—
- (a) a person notifies the Tax Authority under subsection (4),
 - (b) it is satisfied that the person will not carry out taxable activities,
 - (c) it is satisfied that no tax which the person is liable to pay is unpaid,
 - (d) it is satisfied that no credit to which the person is entitled under regulations made under section 18 is outstanding, and
 - (e) subsection (8) does not apply,
- the Tax Authority must cancel the person's registration with effect from the earliest practicable time after the person ceases to carry out taxable activities.
- (8) Where—
- (a) a person notifies the Tax Authority under subsection (4), and
 - (b) it is satisfied that the person has not carried out, and will not carry out, taxable activities,
- the Tax Authority must cancel the person's registration with effect from the time when the person ceased to have the intention to carry out taxable activities.
- (9) For the purposes of this section, the Scottish Ministers may, by regulations, make provision—
- (a) as to the time within which a notification is to be made,
 - (b) as to the form and manner in which any notification is to be made and as to the information to be contained in or provided with it,
 - (c) requiring a person who has made a notification to notify the Tax Authority if any information contained in or provided in connection with the notification is or becomes inaccurate,
 - (d) as to the correction of entries in the register.
- (10) References in this Act to a registrable person are to a person who—
- (a) is registered under this section, or
 - (b) is liable to be registered under this section.

23 Information required to keep register up to date

- (1) The Scottish Ministers may, by regulations, make provision requiring a registrable person to notify the Tax Authority of particulars of changes in circumstances relating to the registrable person (or any business carried on by the registrable person) which—

- (a) appear to the Tax Authority to be required for the purpose of keeping the register kept under section 22 up to date, and
 - (b) are of a description specified in the regulations.
- (2) The regulations may, in particular, make provision—
- (a) as to the time within which a notification is to be made,
 - (b) as to the form and manner in which a notification is to be made,
 - (c) requiring a person who has made a notification to notify the Tax Authority if any information contained in or provided in connection with the notification is or becomes inaccurate.

24 Publication of the register

- (1) The Tax Authority may publish, by such means as it thinks fit, information which—
- (a) is derived from the register kept under section 22, and
 - (b) falls within any of the descriptions set out below.
- (2) The descriptions are—
- (a) the names of registered persons,
 - (b) the addresses of any sites or other premises at which they carry on business,
 - (c) the registration numbers assigned to them in the register,
 - (d) the fact (where it is the case) that the registered person is a body corporate which by virtue of section 38 is treated as a member of a group,
 - (e) the names of the other bodies corporate treated under that section as members of the group,
 - (f) the addresses of any sites or other premises at which those other bodies carry on business.
- (3) Information may be published in accordance with this section notwithstanding any obligation not to disclose the information that would otherwise apply.

Accounting for tax

25 Accounting for tax and time for payment

- The Scottish Ministers may, by regulations, provide that a registrable person must—
- (a) account for tax by reference to such periods (“accounting periods”) as may be determined by or under the regulations,
 - (b) make, in relation to accounting periods, returns in such form and at such times as may be so determined,
 - (c) pay tax at such times and in such manner as may be so determined.

Time of disposal where invoice issued

26 Time of disposal where invoice issued

- (1) Where—
- (a) a taxable disposal is in fact made on a particular day, and

- (b) within the period of 14 days beginning with that day the person liable to pay tax in respect of the disposal issues a landfill invoice in respect of that disposal, for the purposes of this Act the disposal is to be treated as made at the time the invoice is issued.
- (2) Subsection (1) does not apply if the person has notified the Tax Authority in writing that the person elects not to take advantage of that subsection.
- (3) A landfill invoice is a document containing such particulars as the Scottish Ministers may, by regulations, prescribe for the purposes of subsection (1).
- (4) The Tax Authority may at the request of a person direct that subsection (1) is to apply—
 - (a) in relation to disposals in respect of which the person is liable to pay tax, or
 - (b) in relation to such disposals as may be specified in the direction,
 as if for the period of 14 days there were substituted such longer period as may be specified in the direction.

*Adjustment of contracts***27 Adjustment of contracts**

- (1) This section applies where—
 - (a) material undergoes a landfill disposal,
 - (b) a payment falls to be made under a disposal contract relating to the material, and
 - (c) after the making of the contract there is a change in the tax chargeable on the landfill disposal.
- (2) In such a case, the amount of any payment mentioned in subsection (1)(b) is to be adjusted, unless the disposal contract otherwise provides, so as to reflect the tax chargeable on the landfill disposal.
- (3) For the purposes of this section a disposal contract relating to material is a contract providing for the disposal of the material, and it is immaterial—
 - (a) when the contract was made,
 - (b) whether the contract also provides for other matters,
 - (c) whether the contract provides for a method of disposal and (if it does) what method it provides for.
- (4) The reference in subsection (1) to a change in the tax chargeable is a reference to a change—
 - (a) to or from no tax being chargeable, or
 - (b) in the amount of tax chargeable.

*Evidence about tax status***28 Evidence about tax status**

- (1) A certificate of the Tax Authority—
 - (a) that a person was or was not at any time registered under section 22, or

- (b) that any return required by regulations made under section 25 has not been made or had not been made at any time,
is sufficient evidence of that fact until the contrary is proved.
- (2) A copy of any document provided to the Tax Authority for the purposes of this Act and certified by it to be such a copy is admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.
- (3) Any document purporting to be a certificate under subsection (1) or (2) is to be taken to be such a certificate until the contrary is proved.

Recovery of overpaid tax

29 Recovery of overpaid tax

- (1) Where a person has paid an amount to the Tax Authority by way of tax which was not tax due to it, it is liable to repay the amount to the person.
- (2) The Tax Authority is only liable to repay an amount under this section on a claim being made for the purpose.
- (3) It is a defence, in relation to a claim under this section, that repayment of an amount would unjustly enrich the claimant.
- (4) The Tax Authority is not liable, on a claim made under this section, to repay any amount paid to it more than 4 years before the making of the claim.
- (5) A claim under this section must be made in such form and manner and supported by such documentary evidence as the Scottish Ministers may, by regulations, prescribe.
- (6) Except as provided by this section, the Tax Authority is not liable to repay an amount paid to it by way of tax by virtue of the fact that it was not tax due to it.

Information

30 Information: material at landfill sites

- (1) The Scottish Ministers may, by regulations, make provision about giving the Tax Authority information relating to material at a landfill site or part of a landfill site.
- (2) The regulations may require a person to give information.
- (3) The regulations may—
- (a) require a person, or authorise an authorised person to require a person, to designate a part of a landfill site (a “non-disposal area”), and
 - (b) require material, or descriptions of material specified in the regulations, to be deposited in a non-disposal area.
- (4) The regulations may make provision about information relating to what is done with material.
- (5) Subsections (2) to (4) do not prejudice the generality of subsection (1).

31 Information: site restoration

- (1) Before commencing restoration of all or part of a landfill site, the operator of the site must—
 - (a) notify the Tax Authority in writing that the restoration is to commence, and
 - (b) provide such other written information as the Tax Authority may require.
- (2) In this section “restoration” means work, other than capping waste, which is required by a relevant instrument to be carried out to restore a landfill site to use on completion of waste disposal operations.
- (3) The following are relevant instruments—
 - (a) a planning permission,
 - (b) an authorisation.

*Record keeping***32 Records: registrable persons**

- (1) The Scottish Ministers may, by regulations, require registrable persons to make records.
- (2) The regulations may be framed by reference to such records as may be stipulated in any notice published by the Tax Authority in pursuance of the regulations and not withdrawn by a further notice.
- (3) The regulations may—
 - (a) require registrable persons to preserve records of a description specified in the regulations (whether or not the records are required to be made in pursuance of regulations) for such period not exceeding 6 years as may be specified in the regulations,
 - (b) authorise the Tax Authority to direct that any such records need only be preserved for a shorter period than that specified in the regulations,
 - (c) authorise a direction to be made so as to apply generally or in such cases as the Tax Authority may stipulate.
- (4) A duty under regulations under this section to preserve records may be discharged—
 - (a) by preserving them in any form and by any means, or
 - (b) by preserving the information contained in them in any form and by any means,subject to any conditions or exceptions specified in writing by the Tax Authority.

33 Records: material at landfill sites

- (1) The Scottish Ministers may, by regulations, require a person to make records relating to material at a landfill site or part of a landfill site.
- (2) The regulations may make provision about records relating to what is done with material.
- (3) Subsections (2) to (4) of section 32 apply in relation to regulations under this section as they apply in relation to regulations under section 32.

Status: This is the original version (as it was originally enacted).

- (4) But, in the application of section 32(3)(a) in relation to regulations under this section, the reference to registrable persons has effect as a reference to persons.