
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 3

The Scottish Landfill Tax (Administration) Regulations 2015

PART 6

Credit: bad debts

Interpretation

18. In this Part—

“claim” means a claim in accordance with Part 4 of these Regulations for an amount of credit arising under this Part and “claimant” shall be construed accordingly;

“customer” means a person for whom a taxable activity is carried out by the claimant;

“outstanding amount” means, in relation to any claim—

- (a) if at the time of the claim the claimant has received no payment in respect of the amount written off in his accounts, the amount so written off; or
- (b) if at that time he has received a payment, the amount by which the amount written off exceeds the payment (or the aggregate of the payments);

“relevant disposal” means any taxable disposal upon which a claim is based;

“security” means—

- (a) in relation to Scotland, any security (whether heritable or moveable), any floating charge and any right of lien or preference and right of retention (other than a right of compensation or set-off); and
- (b) in relation to England, Wales and Northern Ireland, any mortgage, charge, lien or other security.

Scope

19. An entitlement to credit arises under this Part where—

- (a) a registered person has carried out a taxable activity for a consideration in money for a customer with whom the registered person is not connected;
- (b) the registered person has accounted for and paid tax on the disposal concerned;
- (c) the whole or any part of the consideration for the disposal has been written off in the registered person’s accounts as a bad debt;
- (d) the registered person has issued a landfill invoice in respect of the disposal which shows the amount of tax chargeable;
- (e) that invoice was issued—
 - (i) within 14 days of the date of the disposal; or
 - (ii) within such other period as may have been specified by Revenue Scotland;
- (f) a period of one year (beginning with the date of the issue of that invoice) has elapsed; and

(g) the following provisions of this Part have been complied with.

Amount of credit

20. The credit arising under this Part shall be of an amount equal to such proportion of the tax charged on the relevant disposal as the outstanding amount forms of the total consideration.

Evidence required in support of claim

- 21.** The claimant, before making a claim, shall hold in respect of each relevant disposal—
- (a) a copy of the landfill invoice issued by the claimant;
 - (b) records or any other documents showing that the claimant has accounted for and paid tax on the disposal; and
 - (c) records or any other documents showing that the consideration has been written off in the claimant’s accounts as a bad debt.

Records required to be kept

- 22.—**(1) Any person who makes a claim shall make a record of that claim.
- (2) The record referred to in paragraph (1) above shall contain the following information in respect of each claim made—
- (a) in respect of each relevant disposal—
 - (i) the amount of tax charged;
 - (ii) the return in which that tax was accounted for and when it was paid;
 - (iii) the date and identifying number of the landfill invoice that was issued;
 - (iv) any consideration that has been received (whether before the claim was made or subsequently);
 - (v) the details of any transfer note;
 - (b) the outstanding amount;
 - (c) the amount of the claim;
 - (d) the return in which the claim was made.
- (3) Any records made in pursuance of this regulation shall be kept in a single account known as “the landfill tax bad debt account”.

Attribution of payments

- 23.—**(1) Where—
- (a) the claimant has carried out a taxable activity for a customer;
 - (b) there exist one or more other matters in respect of which the claimant is entitled to a debt owed by the customer (whether they involve a taxable disposal or not and whether they are connected with waste or not); and
 - (c) a payment has been received by the claimant from the customer,
- the payment shall be attributed to the taxable activity and the other matters in accordance with the rule set out in paragraphs (2) and (3) below (and the debts arising in respect of the taxable activity and the other matters are collectively referred to in those paragraphs as debts).
- (2) The payment shall be attributed to the debt which arose earliest and, if not wholly attributed to that debt, thereafter to debts in the order of the dates on which they arose, except that attribution

under this paragraph shall not be made if the payment was allocated to a debt by the customer at the time of payment and the debt was paid in full.

(3) Where—

- (a) the earliest debt and the other debts to which the whole of the payment could be attributed arose on the same day; or
- (b) the debts to which the balance of the payment could be attributed in accordance with paragraph (2) above arose on the same day,

the payment shall be attributed to those debts by multiplying, for each such debt, the payment made by a fraction of which the numerator is the amount remaining unpaid in respect of that debt and the denominator is the amount remaining unpaid in respect of all those debts.

Repayment of credit

24.—(1) Where—

- (a) a claimant has benefited from an amount of credit to which the claimant was entitled under this Part; and
- (b) either—
 - (i) a payment for the relevant disposal is subsequently received; or
 - (ii) a payment is, by virtue of regulation 23, treated as attributed to the relevant disposal,

the claimant shall repay to Revenue Scotland such amount as equals the amount of the credit, or the balance thereof, multiplied by a fraction of which the numerator is the amount so received or attributed, and the denominator is the amount of the outstanding consideration.

(2) Where the claimant—

- (a) fails to comply with the requirements of regulation 22; or
- (b) in relation to the documents mentioned in that regulation, fails to comply with either—
 - (i) section 99(1) of the RSTP Act; or
 - (ii) any obligation arising under 111(4)(a) of that Act,

the claimant shall repay to Revenue Scotland the amount of the claim to which the failure to comply relates.

Writing off debts

25.—(1) This regulation shall apply for the purpose of determining whether, and to what extent, the consideration is to be taken to have been written off as a bad debt.

(2) The whole or any part of the consideration for a taxable activity shall be taken to have been written off as a bad debt where—

- (a) the customer has become insolvent—
 - (i) through sequestration or bankruptcy or entering into any accommodation with the customer's creditors; or
 - (ii) by going into insolvent winding up or by entering administration;
- (b) the claimant because of the insolvency of the customer has to any extent not been able to recover the consideration;
- (c) the claimant has written it off in accounts as a bad debt; and
- (d) the claimant has made an entry in relation to that activity in the landfill tax bad debt account in accordance with regulation 22 (and this shall apply regardless of whether a claim can be made in relation to that activity at that time).

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(3) Where the claimant owes an amount of money to the customer which can be set off, the consideration written off in the landfill tax bad debt account shall be reduced by the amount so owed.

(4) Where the claimant holds in relation to the customer an enforceable security, the consideration written off in the landfill tax bad debt account shall be reduced by the value of the security.