

**2016 No. 376**

**LANDFILL TAX, ENGLAND AND WALES**

**LANDFILL TAX, NORTHERN IRELAND**

**The Landfill Tax (Amendment) Regulations 2016**

<i>Made</i>	- - - -	<i>16th March 2016</i>
<i>Laid before the House of Commons</i>		<i>16th March 2016</i>
<i>Coming into force</i>	- -	<i>1st April 2016</i>

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by sections 51(1) and 53(1), (2) and (4) of the Finance Act 1996<sup>(a)</sup>, make the following Regulations:

**Citation, commencement and application**

1. These Regulations may be cited as the Landfill Tax (Amendment) Regulations 2016 and come into force on 1st April 2016.
2. The amendments made by these Regulations apply in relation to payments made to a body as described in section 53(1) of the Finance Act 1996 on or after 1st April 2016.

**Amendments to the Landfill Tax Regulations 1996**

3. The Landfill Tax Regulations 1996<sup>(b)</sup> are amended as follows.
4. In regulation 30(1) (interpretation and general provisions)—
  - (a) in the definition of “income”, after “interest” insert “, other than interest arising from the investment of an investment contribution”; and
  - (b) after the definition of “income”, insert—

““investment contribution” means a payment made to an approved body subject to a condition that it may only be invested for the purposes of generating interest.”
5. In regulation 31(3) (entitlement to credit), for “5.7” substitute “4.2”.

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(a) 1996 c. 8. Under section 71(2) of the Finance Act 1996, any power to make regulations under Part III of that Act shall be exercisable by “the Commissioners”. Section 70(1) of that Act defines “the Commissioners” as those of Customs and Excise for the purposes of Part III of that Act. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of the latter Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs. Section 40 of the Finance Act 1996 was amended by the Scotland Act 2012 (c.11), section 31, with effect from 1st April 2015 by virtue of S.I. 2015/638 (C.35). That amendment restricts the territorial scope of section 40 of the Finance Act 1996, with the effect that landfill tax is only chargeable in respect of taxable disposals made in England and Wales or Northern Ireland.

(b) S.I. 1996/1527, amended by S.I. 1999/3270, S.I. 2002/1, S.I. 2010/2437, S.I. 2015/599, S.I. 2015/744. There are other amending instruments, but none is relevant.

6. In regulation 32 (qualifying contributions)—
- (a) in paragraph (1), for “A payment is a qualifying contribution if”, substitute “Subject to paragraph (1A), a payment is a qualifying contribution if”; and
  - (b) after paragraph (1), insert—  
“(1A) A payment is not a qualifying contribution if it is an investment contribution.”.
7. In regulation 33 (bodies eligible for approval)—
- (a) omit paragraph (2)(f); and
  - (b) in paragraph (12)(a), for “(2)(a)–(f)”, substitute “(2)(a) to (e)”.
8. In regulation 33A (obligations of approved bodies)—
- (a) in paragraph (1)(d), for “make and retain records of the following”, substitute “make a record of each of the following matters and retain that record for the record retention period”;
  - (b) in paragraph (1)(g), for a “request being made for such information or access”, substitute “a request for such information or access made during the record retention period”; and
  - (c) after paragraph (4), insert—  
“(5) In paragraph (1)(d) and (g), the “record retention period” is the period of six years beginning with the day on which the record is made.”.

*Edward Troup  
Jim Harra*

16th March 2016

Two of the Commissioners for Her Majesty’s Revenue and Customs

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

The Regulations make amendments to the Landfill Tax Regulations 1996 (S.I. 1996/1527), as amended, in order to make changes to the operation of the Landfill Communities Fund (the ‘LCF’). The changes made by these Regulations will only apply to payments made to approved bodies on or after 1st April 2016.

These Regulations, first, reduce the maximum amount of credit that a registered person may receive in respect of LCF contributions in any contribution year (being a year commencing on 1st April). Secondly, the Regulations prevent registered persons making payments to approved bodies on condition that the sums paid may only be invested in order to generate interest. Thirdly, these Regulations preclude approved bodies from providing financial and other services to other such bodies. Fourthly, the Regulations amend the requirements on approved bodies to retain records made in the course of the operation of the LCF.

A Tax Information and Impact Note covering this instrument was published on 9th December 2015 alongside a draft of this instrument. This has been updated as a result of changes to the impacts as a result of this instrument and is available on the gov.uk website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

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