

2018 No. 243

LANDFILL TAX, ENGLAND AND WALES

LANDFILL TAX, NORTHERN IRELAND

The Landfill Tax (Wales) (Consequential and Transitional Provisions) Order 2018

Made - - - - 26th February 2018
Laid before the House of Commons 27th February 2018
Coming into force - - 1st April 2018

The Treasury, in exercise of the powers conferred by section 28 of the Wales Act 2014^(a), make the following Order.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Landfill Tax (Wales) (Consequential and Transitional Provisions) Order 2018 and comes into force on 1st April 2018.

(2) Article 2 of this Order has effect in relation to any payment made to an approved body that is accounted for in a return for an accounting period which begins on or after 1st April 2018.

(3) In this Order—

(a) the following expressions have the same meaning as they do in the sections mentioned of the Finance Act 1996^(b)—

“accounting period” (section 49);

“regulatory body” (section 53(2));

(b) the following expressions have the same meaning as they do in the regulations mentioned of LFTR 1996—

“approved body” (regulation 34(1));

“qualifying contribution” (regulation 32);

“running costs” (regulation 30(1));

(c) “LFTR 1996” means the Landfill Tax Regulations 1996^(c).

(a) 2014 c. 29.

(b) 1996 c. 8. Landfill tax ceases to be charged on disposals made in Wales by virtue of section 19(3) of the Wales Act 2014, which takes effect on 1st April 2018, as the day appointed for commencement of that section by the Wales Act 2014, Sections 16 and 19 (Disapplication of UK Stamp Duty Land Tax and UK Landfill Tax) (Appointed Date) Order 2018 (2018/214 (C. 21)). This has the effect that, from 1st April 2018, landfill tax is only chargeable in respect of taxable disposals made in England and Northern Ireland.

(c) S.I. 1996/1527, amended by S.I. 2015/599, S.I. 2016/376. There are other amending instruments, but none is relevant.

Amendments to LFTR 1996

- 2.—(1) LFTR 1996 is amended as follows.
- (2) In regulation 33 of LFTR 1996—
- (a) in paragraph (11), omit “,Wales, ”;
 - (b) in paragraph (12)(b), omit “, Wales” and, after “Northern Ireland,”, insert “and a proportion is located in another part of the United Kingdom,”; and
 - (c) in paragraph (12)(c), omit “, Wales,” and, after “Northern Ireland,”, insert “and a proportion is located in another part of the United Kingdom,”.

Transitional provisions: credit- bodies concerned with the environment

- 3.—(1) Paragraph (2) applies in relation to a payment made to an approved body—
- (a) which is accounted for in a return for an accounting period which begins on or before 31st March 2018 and is a qualifying contribution; but
 - (b) which, were it to be have been accounted for in a return for an accounting period which begins on or after 1st April 2018, by virtue of article 2 would not be a qualifying contribution.
- (2) The payment ceases to be a qualifying contribution unless—
- (a) the payment is spent by an approved body on or before 31st March 2020;
 - (b) the payment is retained by an approved body in order that it may be spent on the approved body’s residual costs, if the retention is approved by the regulatory body; or
 - (c) subject to paragraph (3), the payment is retained by an approved body in order that it may be spent on the approved body’s running costs which are not residual costs (“other running costs”).
- (3) Where a payment is retained as described in paragraph (2)(c), the amount of that payment must not cause to be exceeded the proportion of the approved body’s running costs that, on a just and equitable basis, are attributable to that body carrying out its approved objects in England and Northern Ireland.
- (4) For the purposes of paragraph (2)(a), in regulation 36(1) of LFTR 1996 (repayment of credit), reference to a qualifying contribution being spent or not spent includes the payment being spent or retained (or not spent or retained) as provided by paragraph (2).
- (5) For the purposes of paragraph (2)(c), in regulation 33(8) of LFTR 1996 (paying running costs as an approved object) reference to “running costs” is to be treated as if it were a reference to “other running costs”.
- (6) In paragraph (2)(c), “residual costs” means sums set aside by an approved body for its running costs (including contractual or statutory costs) where those are incidental to, or consequential on, the cessation of its operations.

Rebecca Harris
Andrew Stephenson

26th February 2018

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes consequential and transitional arrangements in relation to the devolution of landfill tax to Wales. Specifically, it makes amendments to the Landfill Tax Regulations 1996 (S.I. 1996/1527) (“LFTR 1996”) to reflect the fact that landfill tax will no longer be charged in Wales with effect from the day on which sections 18 and 19 of the Wales Act 2014 (c. 29) come into force (the “commencement date”). The amendments made by this Order will come into force on the commencement date.

Sections 51 and 53 of the Finance Act 1996 (c. 8) together with Part 7 of LFTR 1996 provide that a person liable to pay landfill tax (“the taxable person”) is entitled to credit where that person pays a sum to an environmental body (an “approved body”) and that body meets specified objectives (“approved objects”).

The effect of the amendments made to LFTR 1996 by article 2 of this Order is to provide that, following devolution of landfill tax to Wales, the taxable person shall only be entitled to credit where the objects of the approved body to whom the sum is paid involve work carried out wholly or primarily in England or Northern Ireland (landfill tax was devolved to Scotland in 2015).

Article 3 establishes a transitional regime where, for a period of 2 years from the commencement date, the amendments made by article 2 will not have effect. This is in 2 situations: where sums have been paid to an approved body prior to the commencement date and are spent during the 2 year transitional period; and when sums are not spent within the transitional period, but are retained in certain circumstances. The latter will apply in respect of sums held to meet the running costs of an approved body, including on the cessation of its operations, under various conditions.

Article 3 also modifies the effect of regulation 36 of LFTR 1996 for the purposes of payments falling within the transitional regime, so that Her Majesty’s Revenue and Customs can require the repayment of credit from a taxable person in cases where they are not satisfied that the approved body to whom it was paid will use it for an approved purpose.

A tax impact and information note covering this instrument was published on 7th December 2017 and is available on the gov.uk website at <https://www.gov.uk/government/publications/devolution-of-landfill-tax-to-wales-and-the-2-year-transitional-period-for-the-landfill-communities-fund/devolution-of-landfill-tax-to-wales-and-the-2-year-transitional-period-for-the-landfill-communities-fund>. It remains an accurate summary of the impacts that result from this instrument.

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