



# Landfill Tax (Scotland) Act 2014

## 2014 asp 2

### PART 2

#### KEY CONCEPTS

##### *Calculation of tax*

#### **13 Amount of tax**

- (1) The amount of tax charged on a taxable disposal is to be found by multiplying the standard rate by the weight in tonnes of the material disposed of.
- (2) The standard rate is the sum specified for the purposes of this section in an order made by the Scottish Ministers.
- (3) Where the material disposed of consists entirely of qualifying material, the amount of tax charged is to be found by multiplying the lower rate by the weight in tonnes of the material disposed of.
- (4) Qualifying material is material listed (in one or more category) in an order made by the Scottish Ministers.
- (5) The lower rate is the sum specified for the purposes of this section in an order made by the Scottish Ministers.
- (6) An order under subsection (5) may set different lower rates for different categories of qualifying material.
- (7) The Scottish Ministers must—
  - (a) set criteria to be considered in determining from time to time what material is to be listed as qualifying material,
  - (b) keep those criteria under review,
  - (c) revise them whenever they consider they should be revised, and
  - (d) publish the criteria (and any revised criteria).
- (8) In determining from time to time what material is to be listed as qualifying material, the Scottish Ministers must have regard to—
  - (a) the criteria (or revised criteria) published under subsection (7)(d), and

- (b) any other factors they consider relevant.

#### **14 Qualifying material: special provisions**

- (1) This section applies for the purposes of section 13.
- (2) The Tax Authority may direct that where material is disposed of it must be—
  - (a) treated as qualifying material if it would in fact be such material but for a small quantity of non-qualifying material,
  - (b) treated as qualifying material of one category if it would in fact be such material but for a small quantity of qualifying material of another category.
- (3) The Tax Authority may at the request of a person direct that where there is a disposal in respect of which the person is liable to pay tax the material disposed of is to be—
  - (a) treated as qualifying material if it would in fact be such material but for a small quantity of non-qualifying material,
  - (b) treated as qualifying material of one category if it would in fact be such material but for a small quantity of qualifying material of another category.
- (4) Whether a quantity of non-qualifying material or (as the case may be) qualifying material of another category is small is to be determined in accordance with the terms of the direction.
- (5) A direction under subsection (3) may apply to all disposals in respect of which a person is liable to pay tax or to such of them as are identified in the direction.
- (6) If a direction under subsection (3) applies to a disposal, any direction under subsection (2) is not to apply to it.
- (7) The Scottish Ministers may, by order, provide that material must not be treated as qualifying material (or as qualifying material of a particular category) for the purposes of this section unless conditions specified in the order are fulfilled.
- (8) A condition specified under subsection (7) may relate to any matter the Scottish Ministers think fit (such as the production of a document which includes a statement of the nature of the material).

#### **15 Weight of material disposed of**

- (1) The weight of material disposed of on a taxable disposal is to be determined in accordance with regulations made by the Scottish Ministers.
- (2) The regulations may—
  - (a) specify rules for determining the weight,
  - (b) authorise rules for determining the weight to be specified by the Tax Authority in a manner set out in the regulations,
  - (c) authorise rules for determining the weight to be agreed by the person liable to pay the tax and an authorised person.
- (3) The regulations may, in particular, specify, or authorise the specification or agreement of, rules about—
  - (a) the method by which the weight is to be determined,
  - (b) the time by reference to which the weight is to be determined,
  - (c) the discounting of constituents (such as water).

- (4) The regulations may include provision that a specification authorised under subsection (2)(b) may provide—
- (a) that it is to have effect only in relation to disposals of such descriptions as may be set out in the specification,
  - (b) that it is not to have effect in relation to particular disposals unless the Tax Authority is satisfied that such conditions as may be set out in the specification are met in relation to the disposals,
- and the conditions may be framed by reference to such factors as the Tax Authority thinks fit (such as the consent of an authorised person to the specification having effect in relation to disposals).
- (5) The regulations may include provision that—
- (a) where rules are agreed as mentioned in subsection (2)(c), and
  - (b) the Tax Authority believes that they should no longer be applied because they do not give an accurate indication of the weight or they are not being fully observed or for some other reason,
- the Tax Authority may direct that the agreed rules are no longer to have effect.
- (6) The regulations may be so framed that where in relation to a particular disposal—
- (a) no specification of the Tax Authority has effect, and
  - (b) no agreed rules have effect,
- the weight is to be determined in accordance with rules specified in the regulations.