



Landfill Tax (Scotland) Act 2014

2014 asp 2

PART 2

KEY CONCEPTS

Credit

18 Credit: general

- (1) The Scottish Ministers may, by regulations, provide that where—
 - (a) a person has paid or is liable to pay tax, and
 - (b) conditions specified in the regulations are fulfilled,the person is to be entitled to credit of such an amount as is found in accordance with rules specified in the regulations.
- (2) The regulations may make provision as to the manner in which a person is to benefit from credit, and may, in particular, make provision—
 - (a) that a person is to be entitled to credit by reference to accounting periods,
 - (b) that a person is to be entitled to deduct an amount equal to the person's total credit for an accounting period from the total amount of tax due from the person for the period,
 - (c) that if no tax is due from a person for an accounting period but the person is entitled to credit for the period, the amount of the credit is to be paid to the person by the Tax Authority,
 - (d) that if the amount of credit to which a person is entitled for an accounting period exceeds the amount of tax due from the person for the period, an amount equal to the excess is to be paid to the person by the Tax Authority,
 - (e) for the whole or part of any credit to be held over to be credited for a subsequent accounting period,
 - (f) as to the manner in which a person who has ceased to be registrable is to benefit from credit.
- (3) Regulations under subsection (2)(c) or (d) may provide that where at the end of an accounting period an amount is due to a person who has failed to submit returns for

an earlier period as required by this Act, the Tax Authority may withhold payment of the amount until the person has complied with that requirement.

- (4) Regulations under subsection (2)(e) may provide for credit to be held over either on the person's application or in accordance with directions given by the Tax Authority from time to time; and the regulations may allow directions to be given generally or with regard to particular cases.
- (5) The regulations may provide that—
 - (a) no benefit is to be conferred in respect of credit except on a claim made in such manner and at such time as may be determined by or under regulations,
 - (b) payment in respect of credit is to be made subject to such conditions (if any) as the Tax Authority thinks fit to impose, including conditions as to repayment in specified circumstances,
 - (c) deduction in respect of credit is to be made subject to such conditions (if any) as the Tax Authority thinks fit to impose, including conditions as to the payment to the Tax Authority, in specified circumstances, of an amount representing the whole or part of the amount deducted.
- (6) The regulations may require a claim by a person to be made in a return required by provision made under section 25.
- (7) Nothing in section 19 or 20 is to be taken to derogate from the power to make regulations under this section (whether with regard to bad debts, the environment or any other matter).

19 Credit: bad debts

- (1) Regulations may be made under section 18 with a view to securing that a person is entitled to credit if—
 - (a) the person carries out a taxable activity as a result of which the person becomes entitled to a debt which turns out to be bad (in whole or in part), and
 - (b) such other conditions as may be specified in the regulations are fulfilled.
- (2) The regulations may include provision under section 18(5)(b) or (c) requiring repayment or payment if it turns out that it was not justified to regard a debt as bad (or to regard it as bad to the extent that it was so regarded).
- (3) The regulations may include provision for determining whether, and to what extent, a debt is to be taken to be bad.

20 Credit: bodies concerned with the environment

- (1) Regulations may be made under section 18 with a view to securing that a person is entitled to credit if—
 - (a) the person pays a sum to a body whose objects are or include such matters connected with the protection of the environment as are specified in regulations, and
 - (b) such other conditions as are specified in the regulations are fulfilled.
- (2) The regulations may, in particular, specify conditions—
 - (a) requiring bodies to which sums are paid (“environmental bodies”) to be approved by the Tax Authority,

- (b) requiring such sums to be paid with the intention that they be expended on such matters connected with the protection of the environment as may be specified in the regulations.
- (3) The regulations may include provision under section 18(5)(b) or (c) requiring repayment or payment if—
- (a) a sum is not in fact expended on matters specified under subsection (2)(b), or
 - (b) a condition specified in the regulations turns out not to have been fulfilled.
- (4) The regulations may include—
- (a) provision for determining the amount of credit (including provision for limiting it),
 - (b) provision that matters connected with the protection of the environment include such matters as overheads (including administration) of environmental bodies,
 - (c) provision for determining the amounts that may be spent on the administration of environmental bodies,
 - (d) provision as to the matters by reference to which an environmental body can be and remain approved (including matters relating to the functions and activities of any such body),
 - (e) provision for an environmental body to be and remain approved only if it complies with conditions imposed from time to time by the Tax Authority (including provision for the variation or revocation of such conditions),
 - (f) provision allowing (whether prospectively or retrospectively) the withdrawal of approval of an environmental body by the Tax Authority,
 - (g) provision allowing the Tax Authority to delegate the exercise of any of its functions under section 18 or this section to another person,
 - (h) provision allowing the Tax Authority to disclose to any person to whom its functions are delegated by virtue of provision made under paragraph (g) information which relates to the tax affairs of persons carrying out taxable activities and which is relevant to the credit scheme established by the regulations.