



Landfill Tax (Scotland) Act 2014

2014 asp 2

PART 4

GENERAL AND INTERPRETATION

Application of Act to partnerships, groups of companies etc.

38 Groups of companies

- (1) Where any bodies corporate are treated as members of a group by virtue of this section, for the purposes of this Act—
 - (a) any liability of a member of the group to pay tax is to be taken to be a liability of the representative member,
 - (b) the representative member is to be taken to carry out any taxable activities which a member of the group would carry out (apart from this section) by virtue of section 21,
 - (c) all members of the group are jointly and severally liable for any tax due from the representative member.
- (2) Two or more bodies corporate are eligible to be treated as members of a group if the condition mentioned in subsection (3) is fulfilled and—
 - (a) one of them controls each of the others,
 - (b) one person (whether a body corporate or an individual) controls them all, or
 - (c) two or more individuals carrying on a business in partnership control all of them.
- (3) The condition is that the prospective representative member has an established place of business in the United Kingdom.
- (4) Two or more bodies corporate eligible to be treated as members of a group may apply to the Tax Authority to be so treated.
- (5) An application under subsection (4) must set out which of the bodies corporate is to be the representative member.
- (6) Where an application referred to in subsection (4) is made—

Status: Point in time view as at 16/02/2015.

Changes to legislation: There are currently no known outstanding effects for the Landfill Tax (Scotland) Act 2014, Section 38. (See end of Document for details)

- (a) the bodies corporate are to be treated as a group from the beginning of an accounting period, and
 - (b) the body corporate set out in the application is to be the representative member,
- unless the Tax Authority refuses the application.
- (7) Where any bodies corporate are treated as members of a group, an application may be made to the Tax Authority to the effect that—
- (a) a further body eligible to be treated as a member of the group is to be included among the bodies so treated,
 - (b) a body corporate is to be excluded from the bodies so treated,
 - (c) another member of the group is to be substituted as the representative member, or
 - (d) the bodies corporate are no longer to be treated as members of a group.
- (8) Where an application referred to in subsection (7) is made, the change is to have effect from the beginning of an accounting period unless—
- (a) the application is to the effect mentioned in subsection (7)(a) or (c), and
 - (b) the Tax Authority refuses the application.
- (9) The Tax Authority may refuse an application under subsection (4) or (7)(a) or (c) only if it appears to it necessary to do so for the protection of the revenue.
- (10) Where—
- (a) a body corporate is treated as a member of a group as being controlled by any person, and
 - (b) it appears to the Tax Authority that it has ceased to be so controlled,
- the Tax Authority must, by notice given to that person, terminate that treatment from such date as may be specified in the notice.
- (11) An application under this section with respect to any bodies corporate—
- (a) must be made by one of those bodies or by the person controlling them, and
 - (b) must be made not less than 90 days before the date from which it is to take effect, or at such later time as the Tax Authority may allow.
- (12) For the purposes of this section—
- (a) a body corporate is to be taken to control another body corporate if—
 - (i) it is empowered by statute to control that body's activities, or
 - (ii) it is that body's holding company within the meaning of section 1159 of and Schedule 6 to the Companies Act 2006,
 - (b) an individual is or individuals are to be taken to control a body corporate if the individual or individuals would be that body's holding company within the meaning of the provisions mentioned in paragraph (a)(ii), were the individual or individuals a company.

Commencement Information

II S. 38 in force at 16.2.2015 by [S.S.I. 2015/17](#), [art. 2](#)

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