



# Landfill Tax (Scotland) Act 2014

## 2014 asp 2

### PART 2

#### KEY CONCEPTS

##### *Taxable disposals*

### **3 Charge to tax**

- (1) Tax is to be charged on a taxable disposal made in Scotland.
- (2) A disposal is a taxable disposal if—
  - (a) it is a disposal of material as waste (see section 4),
  - (b) it is made by way of landfill (see section 5), and
  - (c) it is made at a landfill site (see section 12).
- (3) For the purposes of subsection (2)(c), a disposal is made at a landfill site if the land on or under which it is made constitutes or falls within land which is a landfill site at the time of the disposal.

### **4 Disposal of material as waste**

- (1) A disposal of material is a disposal of it as waste if the person making the disposal does so with the intention of discarding the material.
- (2) The fact that the person making the disposal or any other person could benefit from or make use of the material is irrelevant.
- (3) Where a person makes a disposal on behalf of another person, for the purposes of subsections (1) and (2) the person on whose behalf the disposal is made is to be treated as making the disposal.
- (4) The reference in subsection (3) to a disposal on behalf of another person includes references to a disposal—
  - (a) at the request of another person,
  - (b) in pursuance of a contract with another person.

## **5 Disposal by way of landfill**

- (1) A disposal of material is a disposal of it by way of landfill if—
  - (a) it is deposited on the surface of land or on a structure set into the surface, or
  - (b) it is deposited under the surface of land.
- (2) Subsection (1) applies whether or not the material is placed in a container before it is deposited.
- (3) Subsection (1)(b) applies whether the material—
  - (a) is covered with earth after it is deposited, or
  - (b) is deposited in a cavity (such as a cavern or mine).
- (4) If material is deposited on the surface of land or on a structure set into the surface with a view to it being covered with earth, the disposal must be treated as made when the material is deposited and not when it is covered.
- (5) The Scottish Ministers may, by order, make provision varying the meaning of the disposal of material by way of landfill.
- (6) The order may modify any enactment (including this Act).
- (7) In this section, “land” includes land covered by water where the land is above the low water mark of ordinary spring tides.
- (8) In this section, “earth” includes similar matter (such as sand or rocks).

## **6 Prescribed landfill site activities to be treated as disposals**

- (1) The Scottish Ministers may, by order, prescribe a landfill site activity for the purposes of this section.
- (2) A “landfill site activity” means any of the following descriptions of activity, or an activity that falls within any of the following descriptions—
  - (a) using or otherwise dealing with material at a landfill site,
  - (b) storing or otherwise having material at a landfill site.
- (3) If a prescribed landfill site activity is carried out at a landfill site, the activity is to be treated—
  - (a) as a disposal of the material involved in the activity as waste,
  - (b) as a disposal of that material made by way of landfill, and
  - (c) as a disposal at the landfill site of that material.
- (4) An order under this section may prescribe a landfill site activity by reference to conditions.
- (5) Those conditions may, in particular, relate to either or both of the following—
  - (a) whether the landfill site activity is carried out in a designated area of a landfill site,
  - (b) whether there has been compliance with a requirement to give information relating to—
    - (i) the landfill site activity, or
    - (ii) the material involved in the landfill site activity,

including information relating to whether the activity is carried out in a designated area of a landfill site.

- (6) In subsection (5), “designated area” means an area of a landfill site designated in accordance with—
- (a) an order under this section, or
  - (b) regulations under section 30, 32 or 33.
- (7) An order under this section may modify any enactment (including this Act).