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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 3**

**The Scottish Landfill Tax (Administration) Regulations 2015**

**PART 2**

**Registration and provision for special cases**

**Notification of liability to be registered**

3.—(1) A person who is required by section 22(3) of the Act to notify Revenue Scotland of an intention to carry out taxable activities shall do so in accordance with Revenue Scotland administrative arrangements, including the formatting of the notification.

(2) The notification referred to in this regulation shall be made within 30 days of the earliest date after 15th February 2015 on which the person either forms or continues to have the intention to carry out taxable activities.

**Changes in particulars**

4.—(1) A person who has made a notification under regulation 3, whether or not it was made in accordance with paragraph (2) of that regulation, shall, within 30 days of—

- (a) discovering any inaccuracy in; or
- (b) any change occurring which causes to become inaccurate,

any of the information which was contained in or provided with the notification, notify Revenue Scotland in writing and furnish it with full particulars.

(2) Without prejudice to paragraph (1) above, a registrable person shall, within 30 days of any change occurring in any of the circumstances referred to in paragraph (4) below, notify Revenue Scotland in writing and furnish it with particulars of—

- (a) the change; and
- (b) the date on which the change occurred.

(3) A registrable person who discovers that any information contained in or provided with a notification under paragraph (1) or (2) above was inaccurate shall, within 30 days of discovering the inaccuracy, notify Revenue Scotland in writing and furnish it with particulars of—

- (a) the inaccuracy;
- (b) the date on which the inaccuracy was discovered;
- (c) how the information was inaccurate; and
- (d) the correct information.

(4) The circumstances mentioned in paragraph (2) above are the following circumstances relating to the registrable person or any taxable business carried on by that person—

- (a) the person's name, trading name (if different) and address and the landfill sites which the person operates;

(b) the person's status, namely whether carrying on business as a sole proprietor, body corporate, partnership or other unincorporated body;

(c) in the case of a partnership, the name and address of any partner.

(5) Any person failing to comply with a requirement imposed in any of paragraphs (1) to (3) above shall be liable to a penalty under section 209 of the RSTP Act.

(6) Where, in relation to a registered person, Revenue Scotland is satisfied that any of the information recorded in the register is or has become inaccurate, it may correct the register accordingly.

(7) For the purposes of paragraph (6) above, it is immaterial whether or not the registered person has notified Revenue Scotland of any change which has occurred in accordance with paragraphs (1) to (3) above.

#### **Notification of cessation of taxable activities**

5. A person who is required by section 22(4) of the Act to notify Revenue Scotland of the person's having ceased to have the intention to carry out taxable activities shall, within 30 days of the person's so having ceased, notify Revenue Scotland in writing and shall therein inform it of—

(a) the date on which the person ceased to have the intention of carrying out taxable activities; and

(b) if different, the date on which the person ceased to carry out taxable activities.

#### **Transfer of a going concern**

6.—(1) Where—

(a) a taxable business is transferred as a going concern;

(b) the registration of the transferor has not already been cancelled;

(c) as a result of the transfer of the business the registration of the transferor is to be cancelled and the transferee has become liable to be registered; and

(d) an application is made in respect of the transfer by both the transferor and the transferee,

Revenue Scotland may with effect from the date of the transfer cancel the registration of the transferor and register the transferee with the registration number previously allocated to the transferor.

(2) An application under paragraph (1) above shall be treated as the notification referred to in regulation 5.

(3) Where the transferee of a business has been registered under paragraph (1) above with the registration number previously allocated to the transferor—

(a) any liability of the transferor existing at the date of the transfer to make a return or account for or pay any tax under Part 3 of these Regulations shall become the liability of the transferee;

(b) any entitlement of the transferor, whether or not existing at the date of the transfer, to credit or payment under Part 4 of these Regulations shall become the entitlement of the transferee.

(4) In addition to the provisions set out in paragraph (3) above, where the transferee of a business has been registered under paragraph (1) above with the registration number previously allocated to the transferor during an accounting period subsequent to that in which the transfer took place (but with effect from the date of the transfer) and any—

(a) return has been made;

- (b) tax has been accounted for; or
- (c) entitlement to credit has been claimed,

by either the transferor or the transferee, it shall be treated as having been done by the transferee.

(5) Where—

- (a) a taxable business is transferred as a going concern;
- (b) the transferee removes material as described in regulation 17(2) or (4); and
- (c) the transferor has paid tax on the disposal concerned,

then, whether or not the transferee has been registered under paragraph (1) above with the registration number previously allocated to the transferor, any entitlement to credit arising under Part 5 of these Regulations shall become the entitlement of the transferee.

### **Representation of unincorporated body**

7.—(1) Where anything is required to be done by or under the Act (whether by these Regulations or otherwise) by or on behalf of an unincorporated body other than a partnership, it shall be the joint and several responsibility of—

- (a) every member holding office as president, chairman, treasurer, secretary or any similar office;
- (b) if there is no such office, every member holding office as a member of a committee by which the affairs of the body are managed; or
- (c) if there is no such office or committee, every member;

but, subject to paragraph (2) below, if it is done by any of the persons referred to above that shall be sufficient compliance with any such requirement.

(2) Where an unincorporated body other than a partnership is required to make any notification such as is referred to in regulations 3 to 5, it shall not be sufficient compliance unless the notification is made by a person upon whom a responsibility for making it is imposed by paragraph (1) above.

(3) Where anything is required to be done by or under the Act (whether by these Regulations or otherwise) by or on behalf of a partnership, it shall be the joint and several responsibility of every partner; but if it is done by one partner or, in the case of a partnership whose principal place of business is in Scotland, by any other person authorised by the partnership with respect thereto that shall be sufficient compliance with any such requirement.

### **Bankruptcy or incapacity of registrable persons**

8.—(1) If a registrable person becomes bankrupt or incapacitated, Revenue Scotland may, from the date on which the registrable person became bankrupt or incapacitated, as the case may be, treat as a registrable person any person carrying on any taxable business of the registrable person; and any legislation relating to Scottish landfill tax shall apply to any person so treated as though that person were a registered person.

(2) Any person carrying on such business as aforesaid shall, within 30 days of commencing to do so, inform Revenue Scotland in writing of that fact and the date of the bankruptcy order or of the nature of the incapacity and the date on which it began.

(3) Where Revenue Scotland have treated a person carrying on a business as a registrable person under paragraph (1) above, they shall cease so to treat that person if—

- (a) the registration of the registrable person is cancelled, whether or not any other person is registered with the registration number previously allocated to the registrable person;
- (b) the bankruptcy is discharged or the incapacity ceases; or

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(c) the person ceases carrying on the business of the registrable person.

(4) In relation to a registrable person which is a company, the references in this regulation to the registrable person becoming incapacitated shall be construed as references to its going into liquidation or receivership or entering administration; and references to the incapacity ceasing shall be construed accordingly.