



Landfill Tax (Scotland) Act 2014

2014 asp 2

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 17th December 2013 and received Royal Assent on 21st January 2014

An Act of the Scottish Parliament to make provision about the taxation of disposals to landfill.

PART 1

SCOTTISH LANDFILL TAX

1 The tax

- (1) A tax (to be known as Scottish landfill tax) is to be charged in accordance with this Act.
- (2) The Tax Authority is to be responsible for the collection and management of the tax.

Commencement Information

II [S. 1](#) in force at 1.4.2015 by [S.S.I. 2015/109](#), [art. 2](#)

2 Overview

This Act is arranged as follows—

Part 2 contains provision for the key concepts underlying the tax including—

- (a) what is a taxable disposal,
- (b) what disposals are exempt from tax,
- (c) how to calculate the amount of tax,
- (d) who is liable to pay the tax,
- (e) when credit is available in relation to the tax,

Part 3 contains provision about the administration of the tax,

Part 4 contains provision about the Tax Authority and definitions of expressions used in the Act,

Part 5 contains provision about subordinate legislation powers and commencement as well as other final provisions.

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

Commencement Information

I2 S. 2 in force at 1.4.2015 by S.S.I. 2015/109, art. 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.

Commencement Information

I3 S. 3 in force at 1.4.2015 by S.S.I. 2015/109, art. 2

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.

Commencement Information

I4 S. 4 in force at 1.4.2015 by S.S.I. 2015/109, art. 2

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

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).

Commencement Information

- I5** S. 5 in force at 7.11.2014 for specified purposes by [S.S.I. 2014/277](#), [art. 2](#), [Sch.](#)
- I6** S. 5 in force at 1.4.2015 in so far as not already in force by [S.S.I. 2015/109](#), [art. 2](#)

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,

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- (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).

Commencement Information

I7 S. 6 in force at 7.11.2014 for specified purposes by [S.S.I. 2014/277, art. 2, Sch.](#)

I8 S. 6 in force at 1.4.2015 in so far as not already in force by [S.S.I. 2015/109, art. 2](#)

Exemptions

7 Material removed from water

- (1) A disposal is not a taxable disposal for the purposes of this Act if it is shown to the satisfaction of the Tax Authority that the disposal is of material all of which—
 - (a) has been removed (by dredging or otherwise) from water falling within subsection (2), and
 - (b) formed part of or projected from the bed of the water concerned before its removal.
- (2) Water falls within this subsection if it is—
 - (a) a river, canal or watercourse (whether natural or artificial), or
 - (b) a dock or harbour (whether natural or artificial).
- (3) A disposal is not a taxable disposal for the purposes of this Act if it is shown to the satisfaction of the Tax Authority that the disposal is of material all of which—
 - (a) has been removed (by dredging or otherwise) from water falling within the approaches to a harbour (whether natural or artificial),
 - (b) has been removed in the interests of navigation, and
 - (c) formed part of or projected from the bed of the water concerned before its removal.
- (4) A disposal is not a taxable disposal for the purposes of this Act if it is shown to the satisfaction of the Tax Authority that the disposal is of material all of which—
 - (a) consists of naturally occurring mineral material, and
 - (b) has been removed (by dredging or otherwise) from the sea in the course of commercial operations carried out to obtain substances such as sand or gravel from the seabed.
- (5) A disposal is not a taxable disposal for the purposes of this Act if it is shown to the satisfaction of the Tax Authority that the disposal is of material all of which comprises

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material falling within subsection (1) or (3) and other material which has been added to that material for the purpose of securing that it is not liquid waste.

Commencement Information

I9 S. 7 in force at 1.4.2015 by S.S.I. 2015/109, art. 2

8 Material resulting from mining and quarrying

- (1) A disposal is not a taxable disposal for the purposes of this Act if it is shown to the satisfaction of the Tax Authority that the disposal is of material all of which fulfils each of the conditions set out in subsection (2).
- (2) The material—
 - (a) must result from commercial mining operations (whether the mining is deep or open-cast) or from commercial quarrying operations,
 - (b) must be naturally occurring material extracted from the earth in the course of the operations, and
 - (c) must not have been subjected to, or result from, a non-qualifying process carried out at any stage between the extraction and the disposal.
- (3) A non-qualifying process is—
 - (a) a process separate from the mining or quarrying operations, or
 - (b) a process forming part of those operations and permanently altering the material's chemical composition.

Commencement Information

I10 S. 8 in force at 1.4.2015 by S.S.I. 2015/109, art. 2

9 Disposal of qualifying material at former quarries

- (1) A disposal is not a taxable disposal for the purposes of this Act if it is—
 - (a) of material all of which is treated for the purposes of section 13 as qualifying material, and
 - (b) made at a qualifying landfill site.
- (2) A landfill site is a qualifying landfill site for the purposes of this section if at the time of the disposal—
 - (a) the landfill site is or was a quarry,
 - (b) subject to subsection (3), it is a requirement of planning permission in respect of the land in which the quarry or former quarry is situated that it be wholly or partially refilled, and
 - (c) subject to subsection (4), the authorisation permitting disposals on or in the land comprising the site permits only the disposal of material which constitutes qualifying material.
- (3) Where a quarry—
 - (a) was in existence before 1 October 1999, and
 - (b) quarrying operations ceased before that date,