

FINANCE ACT 2015

EXPLANATORY NOTES

INTRODUCTION

Section 61: Tax Credit in Northern Ireland

Summary

1. This section enables the Commissioners for HM Revenue & Customs (HMRC) to pay credit relating to aggregates levy paid on aggregate commercially exploited in Northern Ireland (NI) between 1 April 2004 and 30 November 2010 following importation of the aggregate from another European Union (EU) Member State. It also outlines the part to be played by the Department of the Environment in NI (DoE) in this process and specifies information which must be provided by the person claiming a credit.
2. Regulations provided for under the primary legislation come into force on 1 April 2015.

Details of the Section

3. Subsection (2) inserts new sections 30B, 30C and 30D into the Finance Act (FA) 2001.
4. New section 30B(1) enables HMRC to make regulations for the purpose of administering the credit. Section 30B(3) sets out the circumstances in which a person is to be entitled to claim the credit. In particular, they must have previously accounted for aggregates levy in respect of aggregate imported into Northern Ireland during a specified period, and must have previously notified their claim to the DoE. Sections 30B(4) and (5) define terms used in section 30B(3). Section 30B(6) sets out those matters which regulations made by HMRC for the purposes of administering the credit may cover. In particular, it includes a power to impose a requirement that a person is not to be entitled to the credit unless the DoE is satisfied that the site from which the aggregate originated met prescribed conditions; and a power to provide that claims for credit may include interest. Section 30B(7) enables the DoE to set out those prescribed conditions in a notice. Sections 30B(8) and (9) make consequential amendments to FA 2001.
5. New section 30C provides that the power to determine the rate of interest, and method of calculation, is to be set by an Order made by the Treasury, subject to the negative resolution procedure.
6. New section 30D sets out the procedure for making an application to the DoE which will apply if HMRC has imposed a requirement under section 30B(6) that a person is not to be entitled to the credit unless the DoE is satisfied that the originating site met prescribed conditions. Section 30D(2) sets out information that an application to the DoE must contain. Section 30D(3) specifies that an application for a credit cannot be made in respect of a period of time for which a certification has been revoked under section 30D(7). Section 30D(4) requires the DoE to consider applications that are submitted and either certify that the originating site met the prescribed conditions or refuse the application. Section 30D(5) requires the DoE to provide written notice of the certification it decides to make to both the applicant and HMRC. Section

30D(6) requires the DoE to provide certification to subsequent applicants, if the later application applies to the same site at the same period of time. Section 30D(7) sets out those matters which regulations made by HMRC for the purpose of the administration of the certification by the DoE might cover. Those regulations may, amongst other matters, authorise the DoE to revoke a certification, or part of it. Section 30D(8) removes the effect of certification, for any period where it has been revoked. Section 30D(9) provides for the regulations made under this section to require the DoE to inform HMRC when certification has been revoked. Section 30D(10) provides that expenses incurred by the DoE in complying with its obligation under this section are to be met from the Consolidated Fund of Northern Ireland.

7. Subsections (3), (4), (5) and (6) make minor consequential amendments to the FA 2001.

Background Note

8. Aggregates levy is a tax on the commercial exploitation of rock, sand and gravel in the UK. It was introduced on 1 April 2002.
9. The Aggregates Levy Credit Scheme (ALCS) was introduced on 1 April 2004. It provided an 80% levy credit to operators in NI who commercially exploited aggregate originating there, provided they entered into an agreement with the DoE to improve environmental standards at their site(s). The scheme was intended to help aggregate producers in NI cope with the very different market conditions (compared with those in Great Britain) as a result of being the only part of the UK to share a land boundary with another EU Member State.
10. In response to action taken by the British Aggregates Association, in 2010 the European General Court annulled the European Commission's 2004 State aid approval for the ALCS. The scheme was therefore suspended from 1 December 2010 while the Commission undertook an investigation.
11. The Commission completed its investigation and published its decision on 7 November 2014. The Commission was broadly content that the scheme complied with the prevailing rules but expressed concern that the tax benefit arising from the ALCS did not apply to aggregate commercially exploited in NI that originated in another EU Member State. The Commission's decision identified the steps which the UK was required to take in order to correct this distortion; this legislation gives effect to the requirements set out in the Commission's decision.
12. HMRC will work in partnership with the DoE in the operation of the tax credits scheme. A business wishing to claim a levy credit will need to supply DoE with details of the quarry in the other Member State from which it obtained the aggregate. DoE will investigate the environmental standards that applied at that quarry at the time of the purchase and, if satisfied that those standards were broadly equivalent to those met by quarries in NI under the ALCS, will issue the business with a certificate. The business will then need to write to HMRC to claim a levy credit, attaching a copy of the DoE certificate and other evidence supporting its claim.