

2007 No. 965

LANDFILL TAX

The Landfill Tax (Amendment) Regulations 2007

Made - - - - 22nd March 2007

Laid before the House of Commons 22nd March 2007

Coming into force - - 1st April 2007

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 51(1), 53(1), 53(4)(a), (b), (c) and (ca) and 71(9) of the Finance Act 1996(a):

Citation commencement and interpretation

1.—(1) These Regulations may be cited as the Landfill Tax (Amendment) Regulations 2007 and come into force on 1st April 2007.

(2) In these Regulations—

“the Principal Regulations” means the Landfill Tax Regulations 1996(b);

“the 2003 Regulations” means the Landfill Tax (Amendment) Regulations 2003(c).

Amendment of regulation 31 of the Principal Regulations

2. In regulation 31(3) of the Principal Regulations (entitlement to credit) for “6.7” substitute “6.6”.

Amendment of regulation 33A of the Principal Regulations

3.—(1) Amend regulation 33A of the Principal Regulations (obligations of approved bodies) as follows.

(2) After paragraph (1)(a) insert—

(a) 1996 c.8; section 71(2) provides that any power to make regulations under Part 3 of the Act shall be exercisable by the Commissioners and 70(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c.11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise (however expressed) shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs. Section 53(4)(ca) of the 1996 Act was added by a resolution passed by the House of Commons on 21st March 2007 under the Provisional Collection of Taxes Act 1968 (c.2), section 5(1). The resolution is given provisional statutory effect by sections 1 and 5 of the 1968 Act. It will cease to have effect if the resolution is not agreed to by a confirmatory resolution of the House of Commons passed within the next ten days on which the House sits after the resolution under section 5(1) was passed. If it is given a confirmatory resolution, the resolution has effect for a period ending on 5th August 2007 but will cease to have effect thereafter unless re-enacted in the Finance Act 2007. Relevant amendments were made to section 1 of the 1968 Act by the Finance Act 1998 (c.36), section 148(1) and the Finance (No. 2) Act 1997 (c.58), section 50.

(b) SI 1996/1527; the relevant amending instruments are SI 1999/3270 and 2006/865.

(c) SI 2003/605.

“(aa) comply with such conditions as the regulatory body may impose from time to time under regulation 34(1)(aa) (including any conditions varied under regulation 34(1)(ab));”.

(3) In paragraph (1)(f) for “transfer to it or by it” substitute “transfer by that approved body”.

(4) In paragraph (1)(f)(ii) omit “, or as the case may require, to”.

(5) After paragraph (1)(h) insert—

“(ha) submit to the regulatory body at its request, not later than the day specified in paragraph (3), so many of the following details as it requires at any time during the relevant period—

(i) qualifying contributions and any other income or profit whatsoever received by it during the period,

(ii) any expenditure made by it during the period, and

(iii) any balances held during the period;

(hb) if the Commissioners are performing the functions specified in regulation 34(1) instead of the regulatory body, submit, at their request, not later than the day specified in paragraph (3), so many of the following details as they may require at any time during the relevant period—

(i) qualifying contributions and any other income or profit whatsoever received by it during the period,

(ii) any expenditure made by it during the period, and

(iii) any balances held during the period;”.

(6) For paragraph (1)(i) substitute—

“(i) submit to the regulatory body at its request, not later than the day specified in paragraph (3), independently audited financial accounts for the approved body’s last financial year; but such a request may not be made earlier than 10 months following the end of that financial year; and”.

(7) For paragraph (2) substitute—

“(2) For the purposes of paragraphs (1)(h), (1)(ha) and (1hb) the relevant period in respect of an approved body is—

(a) in the case of the first such period, the period commencing with the date on which the body was approved and ending on the following 31st March; and

(b) in the case of subsequent periods, the period of 12 months commencing with the day after the end of the first or, as the case may require, a subsequent period.”.

(8) After paragraph (2) insert—

“(3) The day referred to in paragraphs (1)(ha), (1)(hb) and (1)(i) is the fourteenth day following the day on which a request is made.

(4) Where an approved body submits details in accordance with a request made under paragraph (1)(ha) or paragraph (1)(hb) the requirement in paragraph (1)(h) shall not apply in respect of those details.”.

Amendment of regulation 34 of the Principal Regulations

4.—(1) Amend regulation 34 of the 1996 Regulations (functions of the regulatory body) as follows.

(2) After paragraph (1)(a) insert—

“(aa) may—

(i) at the time a body is approved, or

(ii) subsequently, by notice delivered to that body,

impose such conditions as it sees fit;

- (ab) may, by notice delivered to a body, vary or revoke any condition of the approval;”.
- (3) At the end of paragraph (1)(j) omit “and”.
- (4) At the end of paragraph (1)(k) insert “; and”.
- (5) After paragraph (1)(k) insert—
 - “(l) shall comply with such conditions as the Commissioners may impose from time to time under regulation 35(1)(aa) (including any conditions varied under regulation 35(1)(ab)).”.

Amendment of regulation 35 of the Principal Regulations

5.—(1) Amend regulation 35 of the 1996 Regulations (functions of the Commissioners) as follows.

- (2) After paragraph (1)(a) insert—
 - “(aa) may—
 - (i) at the time the body is approved, or
 - (ii) subsequently, by notice delivered to that body, impose such conditions as they see fit;
 - (ab) may, by notice delivered to the body, vary or revoke any condition of the approval;”.

Revocation of regulation 6 of the 2003 Regulations with saving

6.—(1) Omit regulation 6 of the 2003 Regulations.

(2) Regulation 6 of the 2003 Regulations (saving for contributions made before 1st April 2003) shall continue to have effect with respect to a qualifying contribution that was made, or treated as made, before 1st April 2003 if, but only if, the condition specified in paragraph (3) is satisfied.

(3) The condition referred to in paragraph (2) is that the approved body to which such a qualifying contribution was given or transferred is required to spend that contribution on one or more of the objects described in paragraph (4) pursuant to a written agreement made before the coming into force of these Regulations.

- (4) The objects referred to in paragraph (3) are—
 - (a) for the purpose of encouraging the use of more sustainable waste management practices—
 - (i) research and development
 - (ii) education; or
 - (iii) collection and dissemination of information about waste management practices generally;
 - (b) for the purpose of encouraging the development of products from waste or the development of markets for recycled waste—
 - (i) research and development
 - (ii) education; or
 - (iii) collection and dissemination of information about the development of products from waste or the development of markets for recycled waste.

(5) In paragraph 4(a) “waste management practices” includes waste minimisation, minimisation of pollution and harm from waste, reuse of waste, waste recovery activities and the clearing of pollutants from contaminated land.

Paul Gray
Mike Eland

22nd March 2007

Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st April 2007, amend the Landfill Tax Regulations 1999 (S.I. 1999/1527) (“the principal Regulations”) and make changes to Part VII of the principal Regulations: “Credit: bodies concerned with the environment”. They change the maximum credit that landfill site operators may claim against their annual landfill tax liability. They simplify some of the obligations placed on environmental bodies and the regulatory body. They enable the regulatory body to make its approval of an environmental body subject to conditions. The Regulations enable the Commissioners to make its approval of the regulatory body subject to conditions.

Regulation 2 amends regulation 31(3) of the principal regulations to change the maximum credit a landfill site operator may claim against their annual landfill tax liability from 6.7% to 6.6%.

Regulation 3 provides for amendments to regulation 33A of the principal Regulations (obligations of approved bodies).

New regulation 33A(1)(aa) requires an environmental body to comply with any conditions that the regulatory body may impose under regulation 34(1)(aa).

The amendment to regulation 33A(1)(f) reduces the obligation on an environmental body to notify the regulatory body about the transfer of qualifying contributions. Only those contributions transferred by an environmental body must be notified.

New regulation 33A(1)(ha) requires an environmental body to provide the financial information specified there when the regulatory body requests that information. New regulation 33A(1)(hb) imposes a similar requirement on the environmental body if the Commissioners are performing regulatory functions in place of the regulatory body.

New regulation 33A(1)(i) reduces the obligation on an environmental body to provide accounts for its last financial year. The obligation arises only when the regulatory body requests those accounts. That request may not be made earlier than 10 months following the end of the financial year.

New regulation 33A(2) establishes the relevant period for the purposes of regulation 33A(1)(h),(ha) and (hb). New regulation 33A(4) relieves an environmental body of the obligation to provide financial information body under regulation 33A(1)(h) if that information has already been provided at the request of the regulatory body.

Regulation 4 provides for amendments to regulation 34 (functions of the regulatory body).

New regulation 34(1)(aa) and (ab) provides for the regulatory body to impose conditions in relation to the approval of an environmental body, and to vary or revoke those conditions.

New regulation 34(1)(k) requires the regulatory body to comply with the conditions imposed by the Commissioners under regulation 35(1)(aa).

Regulation 5 provides for amendments to regulation 35 (functions of the Commissioners).

New regulation 35(1)(aa) and (ab) provides for the Commissioners to impose conditions in relation to the approval of the regulatory body, and to vary or revoke those conditions.

Regulation 6 revokes regulation 6 of the Landfill Tax (Amendment) Regulation 2003. It preserves the effect of regulation 6 in relation to qualifying contributions made before 1st April 2003 but only if such contributions are required to be spent by an environmental body on one or more of the objects specified in regulation 6(3) of these Regulations. This obligation must be contained in a written agreement made before the Regulations come into force.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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