
STATUTORY INSTRUMENTS

2009 No. 1930

LANDFILL TAX

The Landfill Tax (Amendment) Regulations 2009

Made - - - - 22nd July 2009
Laid before the House of
Commons - - - - 23rd July 2009
Coming into force - - 1st September 2009

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of powers conferred by sections 49, 51 and 62 of and paragraphs 1A, 2 and 2A of part 1 of Schedule 5 to the Finance Act 1996(1).

1. These Regulations may be cited as the Landfill Tax (Amendment) Regulations 2009 and come into force on 1st September 2009.

2.—(1) The Landfill Tax Regulations 1996(2) are amended as follows—

(2) In the heading to Part III for “AND RECORDS” substitute “, RECORDS AND INFORMATION AREAS”.

(3) In regulation 11(1) (making of returns) for the words “on the form” to the end substitute “in a form that is determined by the Commissioners in a public notice.”.

(4) In regulation 13(4) (correction of errors) for the words “Box 2” to the end substitute “the boxes for underdeclarations and overdeclarations as appropriate in the form referred to in regulation 11(1)”.

(5) In regulation 16(1)(c) (records)—

(a) after “any record made” insert “on or before 31st August 2009”;

(b) after “Part IX of these Regulations” insert “before that Part was revoked with effect from 1st September 2009, or for the purpose of regulation 16A(4) below”.

(6) After regulation 16 insert—

(1) 1996 c. 8; paragraphs 1A and 2A of Part I of Schedule 5 were inserted by Schedule 60 to the Finance Act 2009 (c.10). Section 49 was amended and section 62 was omitted with savings by Schedule 60 to the Finance Act 2009. The powers to make regulations under Part III of the Finance Act 1996 are exercisable by “the Commissioners”. Section 70(1) defines “the Commissioners” as “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 of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that in so far as it is appropriate in consequence of section 5 a reference, however expressed, to the Commissioners of Customs and Excise is to be read as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(2) S.I. 1996/1527, amended by S.I. 2002/1, 2005/759, 2008/1482; there are other amending instruments but none is relevant.

“Information areas

16A.—(1) An officer of Revenue and Customs is authorised to require a person to designate a part of a landfill site (an “information area”), and a person must designate an information area if so required.

(2) Where material at a landfill site is not going to be disposed of as waste and the Commissioners consider, or an officer of theirs considers, there to be a risk to the revenue—

- (a) the material must be deposited in an information area; and
- (b) a registrable person must give the Commissioners, or an officer of theirs, information and maintain a record in accordance with paragraph 4 below.

(3) A designation ceases to have effect if a notice in writing to that effect is given to a registrable person by the Commissioners or by an officer of Revenue and Customs.

(4) A registrable person must maintain a record in relation to the information area of the following information, and give this information to the Commissioners or an officer of theirs if requested—

- (a) the weight and description of all material deposited there;
- (b) the intended destination or use of all such material and, where any material has been removed or used, the actual destination or use of that material;
- (c) the weight and description of any such material sorted or removed.”

(7) In regulation 21(2)(a) (entitlement to credit) after sub-paragraph (ii) insert—

“or (iii) removed for use in restoration of a relevant site and the material involved has previously been used to create or maintain temporary hard standing, to create or maintain a temporary screening bund or to create or maintain a temporary haul road;”.

(8) In regulation 21 at the end insert—

“(7) In this Regulation—

“disposal area” means any area of a landfill site where any disposal takes place;

“haul road” means any road within the landfill site which gives access to a disposal area;

“hard standing” means a base within a landfill site on which any landfill site activity(3) such as sorting, treatment, processing, storage or recycling is carried out;

“screening bund” means any structure on a landfill site (whether below or above ground) put in place to protect or conceal any landfill site activity or to reduce nuisance from noise.”

(9) Revoke Part IX (temporary disposals).

(10) In regulation 42(2) (basic method of determination of weight of material disposed of) for the words “or Part IX of these Regulations require” substitute “requires”.

(11) Omit Form 5 in the Schedule to the Regulations.

(3) The term “landfill site activity” is defined by section 65A (9) of the Finance Act 1996 (c. 8).

22nd July 2009

Dave Hartnett
Bernadette Kenny
Two of the Commissioners for Her Majesty's
Revenue and Customs

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st September 2009, revoke Part IX of the Landfill Tax Regulations 1996 (S.I. 1996/1527) (“the Principal Regulations”) which relates to temporary disposals of material on a landfill site and introduce a new requirement to give information and keep records in relation to information areas. The information required in relation to information areas is the same as was required for the temporary disposal record under Part IX of the Principal Regulations.

Regulation 2 provides for new regulation 16A of the Principal Regulations which authorises an officer of Revenue and Customs to require a person to designate a part of landfill site which will be an information area. Material on a landfill site which is not going to be disposed of as waste must be deposited in an information area where the Commissioners, or their officers, consider that the revenue is at risk. Once material is in an information area, a record must be maintained in relation to it containing the information detailed in regulation 16A(4) of the Principal Regulations which should enable the Commissioners to clarify the taxable status of the material.

Regulation 2(11) amends the Principal Regulations to remove the landfill tax return form from the Schedule to the Principal Regulations and Regulation 2(3) provides that the form will be determined by the Commissioners in a public notice. Regulation 2(4), (5), (9) and (10) makes some consequential changes to regulations 13(4), 16(1) and 42(2) of the Principal Regulations as well as revoking Part IX.

The Landfill Tax (Prescribed Landfill Site Activities) Order 2009, which comes into force on 1st September 2009, prescribes certain activities which take place on a landfill site for the purposes of section 65A of the Finance Act 1996 (c. 8). The effect of this is that the prescribed activities will be treated as disposals and will be subject to landfill tax. Three of the activities are the use of material to create or maintain temporary hard standing, the use of material to create or maintain a temporary screening bund and the use of material to create or maintain a temporary haul road. Regulation 2(7) and (8) provides for landfill tax to be recredited when material has been used in one of these three ways and is subsequently used for site restoration.

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.