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STATUTORY INSTRUMENTS

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**1996 No. 1527**

**The Landfill Tax Regulations 1996**

**PART VI**

**CREDIT: BAD DEBTS**

**Interpretation**

**22.** In this Part—

“claim” means a claim in accordance with Part IV of these Regulations for an amount of credit arising under this Part and “claimant” shall be construed accordingly;

“customer” means a person for whom a taxable activity is carried out by the claimant;

“outstanding amount” means, in relation to any claim—

- (a) if at the time of the claim the claimant has received no payment in respect of the amount written off in his accounts, the amount so written off; or
- (b) if at that time he has received a payment, the amount by which the amount written off exceeds the payment (or the aggregate of the payments);

“relevant disposal” means any taxable disposal upon which a claim is based;

“security” means—

- (a) in relation to England, Wales and Northern Ireland, any mortgage, charge, lien or other security; and
- (b) in relation to Scotland, any security (whether heritable or moveable), any floating charge and any right of lien or preference and right of retention (other than a right of compensation or set-off).

**Scope**

**23.** An entitlement to credit arises under this Part where—

- (a) a registered person has carried out a taxable activity for a consideration in money for a customer with whom he is not connected;
- (b) he has accounted for and paid tax on the disposal concerned;
- (c) the whole or any part of the consideration for the disposal has been written off in his accounts as a bad debt;
- (d) he has issued a landfill invoice in respect of the disposal which shows the amount of tax chargeable;
- (e) that invoice was issued—
  - (i) within 14 days of the date of the disposal, or
  - (ii) within such other period as may have been specified in a direction of the Commissioners made under section 61(3) of the Act;

- (f) a period of one year (beginning with the date of the issue of that invoice) has elapsed; and
- (g) the following provisions of this Part have been complied with.

#### **Amount of credit**

24. The credit arising under this Part shall be of an amount equal to such proportion of the tax charged on the relevant disposal as the outstanding amount forms of the total consideration.

#### **Evidence required in support of claim**

25. The claimant, before he makes a claim, shall hold in respect of each relevant disposal—
- (a) a copy of the landfill invoice issued by him;
  - (b) records or any other documents showing that he has accounted for and paid tax on the disposal; and
  - (c) records or any other documents showing that the consideration has been written off in his accounts as a bad debt.

#### **Records required to be kept**

- 26.—(1) Any person who makes a claim shall make a record of that claim.
- (2) The record referred to in paragraph (1) above shall contain the following information in respect of each claim made:
- (a) in respect of each relevant disposal—
    - (i) the amount of tax charged;
    - (ii) the return in which that tax was accounted for and when it was paid;
    - (iii) the date and identifying number of the landfill invoice that was issued;
    - (iv) any consideration that has been received (whether before the claim was made or subsequently);
  - (v) the details of any transfer note;
  - (b) the outstanding amount;
  - (c) the amount of the claim;
  - (d) the return in which the claim was made.
- (3) Any records made in pursuance of this regulation shall be kept in a single account known as “the landfill tax bad debt account”.

#### **Attribution of payments**

- 27.—(1) Where—
- (a) the claimant has carried out a taxable activity for a customer;
  - (b) there exist one or more other matters in respect of which the claimant is entitled to a debt owed by the customer (whether they involve a taxable disposal or not and whether they are connected with waste or not); and
  - (c) a payment has been received by the claimant from the customer,
- the payment shall be attributed to the taxable activity and the other matters in accordance with the rule set out in paragraphs (2) and (3) below (and the debts arising in respect of the taxable activity and the other matters are collectively referred to in those paragraphs as debts).

(2) The payment shall be attributed to the debt which arose earliest and, if not wholly attributed to that debt, thereafter to debts in the order of the dates on which they arose, except that attribution under this paragraph shall not be made if the payment was allocated to a debt by the customer at the time of payment and the debt was paid in full.

(3) Where—

- (a) the earliest debt and the other debts to which the whole of the payment could be attributed arose on the same day; or
- (b) the debts to which the balance of the payment could be attributed in accordance with paragraph (2) above arose on the same day,

the payment shall be attributed to those debts by multiplying, for each such debt, the payment made by a fraction of which the numerator is the amount remaining unpaid in respect of that debt and the denominator is the amount remaining unpaid in respect of all those debts.

### **Repayment of credit**

**28.**—(1) Where a claimant—

- (a) has benefited from an amount of credit to which he was entitled under this Part; and
- (b) either—
  - (i) a payment for the relevant disposal is subsequently received; or
  - (ii) a payment is, by virtue of regulation 27, treated as attributed to the relevant disposal, he shall repay to the Commissioners such amount as equals the amount of the credit, or the balance thereof, multiplied by a fraction of which the numerator is the amount so received or attributed, and the denominator is the amount of the outstanding consideration.

(2) Where the claimant—

- (a) fails to comply with the requirements of regulation 26; or
- (b) in relation to the documents mentioned in that regulation, fails to comply with either—
  - (i) regulation 16; or
  - (ii) any obligation arising under paragraph 3 of Schedule 5 to the Act,he shall repay to the Commissioners the amount of the claim to which the failure to comply relates.

### **Writing off debts**

**29.**—(1) This regulation shall apply for the purpose of determining whether, and to what extent, the consideration is to be taken to have been written off as a bad debt.

(2) The whole or any part of the consideration for a taxable activity shall be taken to have been written off as a bad debt where—

- (a) the claimant has written it off in his accounts as a bad debt; and
- (b) he has made an entry in relation to that activity in the landfill tax bad debt account in accordance with regulation 26 (and this shall apply regardless of whether a claim can be made in relation to that activity at that time).

(3) Where the claimant owes an amount of money to the customer which can be set off, the consideration written off in the landfill tax bad debt account shall be reduced by the amount so owed.

(4) Where the claimant holds in relation to the customer an enforceable security, the consideration written off in the landfill tax bad debt account shall be reduced by the value of the security.