

Securities in respect of Landfill Tax

We have given you this factsheet either because we have told you that you may have to give security or because you must now give security. If you have a tax adviser you may want to talk to them and show them any correspondence that we have given you.

Tax law allows us to require a registrable person to give an amount of security if there is a serious risk that they will not pay Landfill Tax (LFT) which is or becomes due. The relevant tax law is set out in paragraph 31 of Schedule 5 to the Finance Act 1996.

What a registrable person is

A registrable person is a person or business that is registered or required to be registered for LFT as set out in section 47(10) of the Finance Act 1996.

Who we can ask to give security

It is the registrable person who must give the security.

The notice of requirement to give security

If we require a registrable person to give security, we will issue them with a notice of requirement. This will show the amount of security required, and when it is required. It will also show the way in which the security must be given.

When we may issue a notice of requirement

We may send or give a notice of requirement to a taxable person if:

- in their previous or current business, they have failed to comply with their LFT obligations, or
- we have reason to believe that they might fail to comply with their LFT obligations.

Sending a warning letter before the notice of requirement

Normally we will send a letter warning the registrable person that we may require security. However, if we believe that sending a warning letter will increase the risk that LFT will not be paid, we may send or give a notice of requirement without warning.

What happens if you are required to give security and do not give it in full

It is a **criminal offence** to continue to make taxable disposals for which you are liable to pay LFT when you have been required to give security and have not done so.

If you commit such an offence we may prosecute you. In the event of a successful prosecution, you may have to pay a fine of up to **£5,000 for each taxable supply** you make without giving the security.

In certain circumstances you may be prosecuted individually. This may result in you being personally responsible for paying any fines and compensation awarded by the court.

If you need help

If you have any questions about securities, please contact the officer that wrote to you.

Customers with particular needs

If there is anything about your health or personal circumstances that may make it difficult for you to deal with this matter, please tell the officer that gave you this factsheet. Telling them will mean that they can help you in the most appropriate way.

For example, if:

- English is not your first language
- you would like us to use a certain format to communicate with you, for example, Braille, large print or Text Relay
- you would like us to visit you at home because it is difficult for you to get to one of our offices.

For more information go to www.hmrc.gov.uk/contactus/particular-needs.htm

What if you are unhappy with our service

If you are unhappy with our service, please tell the person or office you have been dealing with. They will try to put things right. If you are still unhappy, they will tell you how to complain.

There is more information on our website. Go to www.hmrc.gov.uk/complaints-appeals/how-to-complain/make-complaint.htm

How we calculate the amount of security

We calculate the amount of security using a formula that has been approved by independent tribunals. That formula is based on:

- the amount of LFT paid or due to be paid by the registrable person for a four or six month period
- plus an amount equal to any arrears of LFT from the current business.

If you make quarterly returns, we will require an amount of security based on the LFT we estimate you would have to pay over six months.

If you make monthly returns, we will require an amount of security based on the LFT we estimate you would have to pay over four months.

We calculate the amount of security using the most accurate information available to us at the time.

Note: Although we use the amount of any arrears of LFT as a way of calculating the amount of security, this does not affect the arrears. We will continue to pursue payment of any arrears in the normal way.

The notice of direction

We can direct a registrable person to change the frequency of their LFT returns. This allows us to monitor the business activities more closely. We may issue a notice of direction to a registrable person that makes quarterly returns, telling them that they must change to monthly returns. Once we are satisfied that there is no longer a risk of LFT due not being paid, we may direct the registrable person to revert to quarterly returns.

A registrable person can also ask to move to monthly returns.

Forms of security that we will accept

We will only accept the following forms of security:

- an electronic payment to a specified HM Revenue & Customs (HMRC) bank account
- a cheque or banker's draft
- a guarantee in the form of a performance bond, authorised and approved by a financial institution.
- a payment into a bank account held in the joint names of the business and HMRC. If this option is used, you will not be able to make any withdrawals from this account without our approval.

We cannot accept property or items such as high value motor vehicles or boats as security.

If you need further information about the acceptable forms of security, please contact the office that has sent this factsheet to you.

Time limits for giving security

Once we send a notice of requirement to a registrable person, the law says that the security must be given immediately. We will allow what we consider to be a reasonable amount of time for the security to be arranged.

How long we will hold the security for

We normally hold security for LFT for at least 12 months for a business on monthly returns and 24 months for a business on quarterly returns. During this time we will monitor the tax affairs of the business. We will return the security when we consider there is no longer a risk that the business will fail to pay the LFT that is due or that may become due.

Authorising a representative

You can authorise someone to deal with us on your behalf. This includes professional tax advisers, friends or relatives.

If you want to authorise a professional tax adviser, they will be able to give you a form to complete and send to us. If you want to authorise someone other than a professional tax adviser, you will need to write to tell us who you want to authorise and what you want them to deal with for you.

This factsheet is one of a series

For the full list of our security factsheets, go to www.hmrc.gov.uk/securitydeposit

Using the security to pay what is owed

If a registrable person gives security and then fails to pay LFT that is due, we may use some or all of the security to pay what is owed. We may then require the registrable person to give further security.

When we no longer require the security for LFT we will check if the registrable person has any other debts with HMRC. If they do, we may then use the security to pay those debts.

Where there are no outstanding debts, we will return the security to the registrable person.

Making a time to pay arrangement for arrears of LFT

If a registrable person has arrears of LFT, agreeing a time to pay arrangement allows them to pay their arrears over an agreed period of time.

If you would like to make a time to pay arrangement with us, or would like more information about this, you should contact the office that sent you this factsheet.

If we agree a time to pay arrangement, we may consider withdrawing the notice of requirement to give security.

What if we require security from you and you disagree with our decision?

If we send you a notice of requirement and you disagree with our decision to require security from you, you have the right to an independent review of that decision. You should request a review within 30 days of the date of the notice of requirement to give security if you:

- think there are facts that may not have been fully considered, or
- can provide further information that you believe will alter our view.

If you prefer, you can appeal direct to an independent tribunal within 30 days of the date of the notice of requirement or, if you have opted for a review, within 30 days from the date of our letter telling you about the review decision.

You can find more information about appeals and reviews in factsheet HMRC1 *HM Revenue & Customs decisions - what to do if you disagree*. You can get this factsheet from our website, go to www.hmrc.gov.uk/factsheets/hmrc1.pdf or by phoning our orderline on **0845 900 0404**.

You can find out more about tribunals on the Tribunals Service website. Go to www.tribunals.gov.uk or you can phone them on **0845 223 8080**.

What if you appeal to an independent tribunal and continue to be involved in taxable activities

If you have appealed to an independent tribunal against a notice of requirement, and you continue to make or receive supplies subject to LFT without giving the security we have asked for, you may still be prosecuted. However, to allow time for your appeal to be heard, we may agree to wait for the tribunal's decision before starting or continuing any prosecution action. If we agree to wait, we will write to tell you.

If the tribunal dismisses your appeal, or you withdraw it, we may decide to start or restart prosecution action.

How to give us security

You can give security by either:

- making a payment
- providing a guarantee in the form of a performance bond
- opening a joint bank account with us.

If you want to give us security by a performance bond or joint bank account, please contact the office that gave you this factsheet.

Before making a payment you should contact your bank or building society to confirm the services available to you, any daily value limits, how long they will take to transfer the money and the latest cut-off times for making a payment.

Details of how you can make a payment are shown below.

Through your own bank or building society by: <ul style="list-style-type: none">• Bacs Direct Credit• internet/telephone banking• Faster Payments, or• CHAPS	You will need to give your bank or building society the following bank details: Sort code: 08-32-00 Account number: 12000903 Account name: HMRC Miscellaneous Reference: 'Security' followed by your LFT registration number
By post	If you are unable to pay by any of the above methods, you can pay by post. Make cheques payable to 'HM Revenue & Customs only' followed by 'Security' and your LFT registration number. Post it to: HM Revenue & Customs Cumbernauld Accounting Team St Mungo's Road CUMBERNAULD G70 5WY

Your principal rights and obligations

- You have the right to be represented. You can appoint anyone to act on your behalf. This includes professional advisers, friends, and so on.
- You have the right to consult your adviser. We will allow a reasonable amount of time for you to do so.
- We will protect information we obtain, receive or hold about you.
- You have the right to complain if you believe that we have not treated you fairly.
- You have an obligation to take care to get things right.
- If you have an adviser, you must still take reasonable care to make sure that any returns, documents or details they send us on your behalf are correct.

Your Charter explains what you can expect from us and what we expect from you.

For more information go to www.hmrc.gov.uk/charter

These notes are for guidance only and reflect the position at the time of writing. They do not affect any right of appeal.

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