

**2016 No.**

**LANDFILL TAX, ENGLAND AND WALES**

**LANDFILL TAX, NORTHERN IRELAND**

**The Landfill Tax (Amendment) Regulations 2016**

*Made* - - - - *\*\*\**

*Laid before the House of Commons* *\*\*\**

*Coming into force* - - *1st April 2016*

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by sections 51(1), 51(2), 51(5) and 53(1) to (4) of the Finance Act 1996(a), make the following Regulations:

**Citation, commencement and application**

1. These Regulations may be cited as the Landfill Tax (Amendment) Regulations 2016 and come into force on 1st April 2016.
2. The amendments made by these Regulations apply in relation to payments made to a body within the meaning of section 53(1) of the Finance Act 1996 on or after 1st April 2016.

**Amendments to the Landfill Tax Regulations 1996**

3. The Landfill Tax Regulations 1996(b) are amended as follows.
4. In regulation 30 (interpretation and general provisions)—
  - (a) in the definition of “income” in paragraph (1), after “interest” insert “(but it does not include investment interest)”; and
  - (b) after the definition of “income” in paragraph (1), insert—

““investment contribution” means a payment made to an approved body subject to a condition that it may only be invested for the purposes of generating interest;

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(a) 1996 c. 8. Under section 71(2) of the Finance Act 1996, any power to make regulations under Part III of that Act shall be exercisable by “the Commissioners”. Section 70(1) of that Act defines “the Commissioners” as those of Customs and Excise for the purposes of Part III of that Act. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of the latter Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs. Section 40 of the Finance Act 1996 was amended by the Scotland Act 2012 (c.11), section 31, with effect from 1st April 2015 by virtue of S.I. 2015/638 (C.35). That amendment restricts the territorial scope of the Finance Act 1996, section 40, with the effect that landfill tax is only chargeable in respect of taxable disposals made in England and Wales or Northern Ireland.

(b) S.I. 1996/1527, amended by S.I. 1999/3270, S.I. 2003/605, S.I. 2007/765, S.I. 2010/2437, S.I. 2015/599, S.I. 2015/744. There are other amending instruments, but none is relevant.

“investment interest” is any interest to which a body becomes entitled as a result of an investment contribution;”.

5. In regulation 31(3) (entitlement to credit), for “5.7” substitute “4.2”.
6. In regulation 32 (qualifying contributions)—
  - (a) in paragraph (1)(c), for “paragraphs (2) to (2B)” substitute “paragraph (2)” and omit the “and” immediately preceding sub-paragraph (1)(d);
  - (b) in paragraph(1)(d), omit “, or to a contributing third party,” and for “made” substitute “made;”;
  - (c) after paragraph (1)(d), insert—
    - “(e) there is no contributing third party in relation to the payment; and
    - (f) it is not an investment contribution”;
  - (d) after paragraph (2)(a), immediately preceding sub-paragraph 2(b), insert “and”;
  - (e) omit paragraphs (2)(c) and (d), (2A) and (2B); and
  - (f) in paragraph (3)(b), omit “or persons who originally paid them”.
7. In regulation 33 (bodies eligible for approval)—
  - (a) in paragraph (1)(e), in sub-paragraph (i), omit “or”, and omit sub-paragraph (ii);
  - (b) omit paragraph (2)(f); and
  - (c) in paragraph (12)(a), for “(2)(a)-(f)”, substitute “(2)(a) to (e)”.
8. In regulation 33A (obligations of approved bodies)—
  - (a) in paragraph (1)(c), omit “or who were contributing third parties in relation to such contributions”;
  - (b) in paragraph (1)(d)—
    - (i) in the opening line, for “make and retain records of the following”, substitute “make records of the following matters and retain them for the record retention period”;
    - (ii) omit sub-paragraph (ii); and
    - (iii) in sub-paragraph (iv), omit “and the name and address of any contributing third party in relation to the qualifying contribution”;
  - (c) omit paragraph (1)(e)(iv);
  - (d) omit paragraph (1)(f)(v), leaving the “and” immediately preceding sub-paragraph (1)(f)(vi);
  - (e) in paragraph (1)(g), for a “request being made for such information or access”, substitute “a request for such information or access made during the record retention period”; and
  - (f) after paragraph (4), insert—

“(5) In paragraphs (1)(d) and 1(g), the “record retention period” is the period of six years beginning with the day on which the record is made.”.
9. In regulation 34(1)(k) (functions of the regulatory body), omit “, and any contributing third party in relation to it.”.
10. In regulation 36(3) (repayment of credit)—
  - (a) in sub-paragraph (b), omit “or a person who was a contributing third party in relation to the qualifying contribution”; and
  - (b) at the end of paragraph (3), “or, as the case may require, to the contributing third party”.

Date

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

## **EXPLANATORY NOTE**

*(This note is not part of these Regulations)*

These Regulations make amendments to the Landfill Tax Regulations 1996 (S.I. 1996/1527, and as previously amended) in order to make changes to the operation of the Landfill Communities Fund (the ‘LCF’), following a public consultation on the LCF that took place between March and June 2015. The LCF allows persons registered for landfill tax to claim credit for certain qualifying contributions they make to approved bodies, which are environmental and similar bodies, for certain approved purposes.

These Regulations, first, revoke provisions that permit registered persons to seek payments to them by third parties to secure the making of contributions by the registered person to approved bodies, or to seek reimbursement for such a contribution. Secondly, they prevent the practice of registered persons making payments to approved bodies on condition that the sums paid may only be invested in order to generate interest. Thirdly, these Regulations preclude approved bodies from providing financial and other services to other such bodies. Fourthly, the Regulations reduce the maximum amount of credit that a registered person may receive in respect of LCF contributions in any contribution year (which are the 12 months beginning on 1st April in each year). Fifthly, the Regulations liberalise the requirements on approved bodies to retain records that they are required to make in the course of the operation of the LCF. The changes made by these Regulations will only apply to payments made to approved bodies on or after 1st April 2016.

A Tax Information and Impact Note covering this instrument was published on [xx] th December 2015 and is available on the gov.uk website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.