POLICY NOTE

THE SCOTTISH LANDFILL TAX (PRESCRIBED LANDFILL SITE ACTIVITIES) AMENDMENT ORDER 2022

SSI 2022/233

The above instrument was made in exercise of the powers conferred by section 6 of the Landfill Tax (Scotland) Act 2014. The instrument is subject to provisional affirmative procedure.

Purpose of the instrument.
This Order amends the Scottish Landfill Tax (Prescribed Landfill Site Activities) Order 2014. The Order prescribes activities be treated as a taxable disposal for the purposes of Scottish Landfill Tax.

Policy Objectives

LT(S)A 2014 provides for a Scottish landfill tax (SLfT). Section 3 of LT(S)A 2014 defines what a taxable disposal is. Section 6 allows the Scottish Ministers to prescribe a specific "landfill site activity", with the effect that it will be treated as a taxable disposal. It also allows for certain conditions to be set before an activity is considered a landfill site activity or a disposal. These powers allowed for by Section 6 are exercised through the Scottish Landfill Tax (Prescribed Landfill Site Activities) Order 2014.

The Scottish Government intends that this order will provide additional confirmation regarding when a taxable disposal has been made.

In summary, this Order provides that any use of material in a landfill cell is taxable unless specifically excluded in the Order or otherwise exempted from the tax.

Consultation

A consultation, Scottish Landfill Tax - further clarity and certainty, was published in November 2021 and sought views on a draft of the Order. The Consultation closed in December 2021.

Of the 15 respondents, nine agreed that the proposed amendment would provide greater certainty and clarity to taxpayers and their customers while three disagreed, and three selected "Don't Know".

Taking the views of those who responded to the consultation into account and having considered all relevant information, the Scottish Government has refined the definition of impermeable layer, expanded the list of activities excluded from prescription and specified that the list of prescribed landfill site activities will include the use of material to create or maintain a cell bund or cell wall.

Impact Assessments

A Business and Regulatory Impact Assessment ("BRIA") has been published for the

regulations and orders associated with LT(S) A 2014. As this Order will confirm the scope of SLfT and not impose any additional administrative burdens on taxpayers, no significant financial effect or impact is anticipated.

Equal opportunities - This Order does not unlawfully discriminate in any way with respect to any of the protected characteristics (including age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) either directly or indirectly.

An Equality Impact Assessment on landfill tax was published previously in December 2014 and no negative impact on equality issues identified.

An environmental screening exercise has determined that the subordinate legislation following on from the LT(S)A 2014 is not likely to generate a negative impact on the environment and a Strategic Environmental Assessment is not required.

Human rights – This Order does not infringe on or affect any subject areas of the European Convention on Human Rights (ECHR). We have not identified differential impact on human rights nor any impact on any individual's civil liberties.

Privacy impacts – No privacy impacts resulting from this legislation have been identified.

Fairer Scotland – No impacts on socio-economic inequalities have been identified.

Island communities – No new impacts have been identified in relation to the provisions of this Order.

Local government – There will not be any additional administrative or compliance burdens specifically affecting local government beyond those duties local authorities are already subject to under the SLfT legislation.

Sustainable development – The Order will have no impact on sustainable development.

Financial Effects

The Scottish Fiscal Commission have assessed that this Order will have no material impact on SLfT revenue as forecast in Scotland's Economic and Fiscal Forecasts – May 2022.

Directorate for Tax and Revenues
July 2022