

SL(6)458 – The Landfill Disposals Tax (Tax Rates) (Amendment) and Tax Collection and Management (Wales) Act 2016 (Miscellaneous Amendments) (Wales) Regulations 2024

Background and Purpose

The Landfill Disposals Tax (Wales) Act 2017 (the “**LDTA**”) establishes and sets out the framework and operational arrangements for landfill disposals tax (“**LDT**”), which replaced UK landfill tax in Wales.

These Regulations prescribe the standard rate, lower rate and unauthorised disposals rate for LDT, which will apply to taxable disposals made on or after 1 April 2024.

The rates from 1 April 2024 are as follows:

- The standard rate is **£103.70** per tonne (increased from £102.10 per tonne),
- The lower rate is **£3.30** per tonne (increased from £3.25 per tonne), and
- The unauthorised disposals rate is **£155.55** per tonne (increased from £153.15 per tonne).

Taxable disposals made on or after 1 April 2023 but before 1 April 2024 will remain subject to rates set by the Landfill Disposals Tax (Tax Rates) (Wales) (Amendment) Regulations 2022.

The Tax Collection and Management (Wales) Act 2016 (the “**TCMA**”) makes provision for the collection and management of devolved Welsh taxes. Regulation 5 of these Regulations amends Table A1 in section 122(3) of the TCMA to substitute an incorrect cross-reference to provisions in the LDTA.

Procedure

Draft Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following 2 points are identified for reporting under Standing Order 21.3 in respect of this instrument.



1. Standing Order 21.3(i) - that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment.

Section 25 of the TCMA provides that the Welsh Revenue Authority (the “**WRA**”) must pay amounts collected in the exercise of its functions into the Welsh Consolidated Fund. The WRA is responsible for the collection and management of LDT. These Regulations prescribe the three rates of LDT in Wales.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

Section 122 of the TCMA makes a person liable to a penalty for late payment of devolved tax. Penalties for late payment in respect of LDT charged on unauthorised disposals are provided for by reference to item 10 of Table A1 in section 122(3), which describes such charges as an

*“Amount charged by a charging notice issued under **section 48 or 49** of LDTA.”*
[Emphasis added].

Section 48 of the LDTA contains the power to issue a preliminary notice (which states why the WRA thinks a taxpayer is liable to pay LDT at the unauthorised disposals rate). It does not contain the power to issue a charging notice. Taxpayers issued with a preliminary notice under section 48 may make representations to the WRA as to why LDT is not due before the WRA decides whether tax should be charged. Section 49 contains the power for the WRA to issue a charging notice following the preliminary notice. Section 50 allows the WRA to issue a charging notice without first issuing a preliminary notice in circumstances where the WRA thinks that there is likely to be a loss of tax if it proceeds under sections 48 and 49.

Regulation 5 of these Regulations corrects the reference to section 48 or 49 of the LDTA in item 10 of Table A1 so that it instead refers to charging notices issued under **section 49 or 50** of the LDTA.

The Explanatory Memorandum to these Regulations (at paragraph 4.15) states that:

“This error appears to have occurred when a new section was added into the LDT Bill at Stage 3 (becoming section 25) with all subsequent sections of the Bill being renumbered. The need to update item 10 in Table A1 to reflect the renumbering of the sections was overlooked. If the error is not corrected, the WRA will not be able to charge a late payment penalty for tax charged pursuant to charging notices issued under section 50 of the LDTA...”

The Welsh Government is therefore asked to confirm whether:



1. it has identified any other provisions in the LDTA which may require amendment as a result of the insertion of section 25 of the LDTA at Stage 3 of the LDT Bill;
2. the WRA has imposed any late payment penalties on taxpayers in connection with notices issued under section 50 of the LDTA;
3. any sums recovered by the WRA in respect of such penalties have been paid into the Welsh Consolidated Fund;
4. it has concluded that any such penalties were unlawfully imposed as a result of the identified error in section 122 of the TCMA; and, if so,
5. it has taken, or is proposing to take, any steps in connection with those penalties.

Welsh Government response

Merit Scrutiny point 2: The Welsh Government has not identified any other provisions in the LDTA which require amendment as a result of the insertion of section 25 of the LDTA at Stage 3 of the LDT Bill.

The WRA has not yet issued any notices under section 50 of the LDTA and will not do so before this amendment to the TCMA takes effect. Therefore no late payment penalties have been or will be imposed in connection to notices issued under section 50 of the LDTA prior to this amendment.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 4 March 2024 and reports to the Senedd in line with the reporting points above.

