These documents relate to the Landfill Tax (Scotland) Bill (SP Bill 28) as introduced in the Scottish Parliament on 17 April 2013

LANDFILL TAX (SCOTLAND) BILL

EXPLANATORY NOTES
(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS
As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Landfill Tax (Scotland) Bill introduced in the Scottish Parliament on 17 April 2013:

- Explanatory Notes;
- a Financial Memorandum;
- a Scottish Government Statement on legislative competence; and
- the Presiding Officer’s Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 28–PM.
EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

BACKGROUND

3. The Landfill Tax (Scotland) Bill (“the Bill”) is one of three related Bills being brought forward as a consequence of measures enacted in the Scotland Act 2012 (c.11) (“the 2012 Act”) which received Royal Assent on 1 May 2012. Under the terms of the 2012 Act, the Scottish Parliament will have responsibility for taxes on land transactions and disposals to landfill. The Bill deals with the latter responsibility and makes provision for a tax on disposals to landfill in Scotland, to be called the Scottish Landfill Tax. Scottish Landfill Tax is based on UK Landfill Tax as enacted in Part 3 of the Finance Act 1996. The provisions of the 2012 Act disapplying the existing Landfill Tax regime in Scotland will be brought into force by a Treasury Order in the UK Parliament. The intention is that the provisions introducing Scottish Landfill Tax will come into force in April 2015, the day after the UK Landfill Tax is disapplied.

4. Discussion and debate on the provisions of this Bill began with the publication of a consultation document Protecting Our resources – a Consultation on Scottish Landfill Tax¹ on 25 October 2012.

5. The consultation document was published to allow a wide range of people and representative bodies with an interest in and experience of tax matters to comment. A total of 68 responses were received from individuals and organisations. Copies of the non-confidential responses will shortly be accessible through the Scottish Government’s Library (0131 244 4565) or website. Zero Waste Scotland was appointed by the Scottish Government to undertake an analysis of the responses received to the consultation and its report will be published on the Scottish Government’s website.

6. The Bill is intended to inter-operate with a Tax Management Bill to be introduced to the Scottish Parliament in 2013, providing for special powers of the Tax Authority, appeals and other matters of common relevance to devolved taxes. The Scottish Government published a consultation document on Tax Management matters in mid-December 2012² which has now closed.

¹ http://www.scotland.gov.uk/Publications/2012/10/3524
² http://www.scotland.gov.uk/Publications/2012/12/5404
THE BILL

OVERVIEW

7. The Bill comprises 44 sections and is divided into five parts as follows:

- **PART 1** establishes that the tax is to be called the Scottish Landfill Tax to avoid potential confusion with references to the tax in any UK legislation and gives an overview of the tax.

- **PART 2** contains the key concepts underlying the tax including, defining what a taxable disposal is, what disposals are exempt from the tax, how to calculate tax, who is liable to pay tax and when credit is available in relation to tax.

- **PART 3** contains the administrative provisions of the bill, including the registration requirements, the accounting periods, the overpayment of tax, defining the location of specified material on landfill sites, restoration issues and outlines the requirements for record keeping.

- **PART 4** defines the Tax Authority and establishes how functions may be delegated to SEPA and how directions may be made. It also outlines the rights of appeal.

- **PART 5** of the Bill sets out the procedure for a series of subordinate legislation to be made under this Bill. This includes:
  - setting the rates of the tax,
  - ability to change the materials taxed (setting qualifying material types),
  - ability to create new material types (due to new technologies or wanting to subdivide existing materials),
  - ability to add or remove exempted material types,
  - ability to change how the tax due is calculated,
  - methodologies for determining weight of material at a site,
  - ability to change credit/rebate qualifications (e.g. the removal of material from a site that has already been taxed gets credited to the landfill site operator etc),
  - procedures for overpaid tax,
  - procedures for administering bad debt including bad debt relief (if a landfill operator’s customer becomes insolvent or bankrupt),
  - orders that can change any part of the Act,
  - functions of a Tax Authority,
  - procedures for writing off bad debts,
  - what information must be on Scottish Landfill Tax invoices.
8. Scottish Landfill Tax is a tax on taxable disposals. A “taxable disposal” is waste material which has been disposed of by way of a landfill.

PART 1 – SCOTTISH LANDFILL TAX


Section 1 – The tax

10. Section 1 introduces Scottish Landfill Tax as the replacement for UK Landfill Tax in Scotland. Scottish Landfill Tax is a tax which is charged on taxable disposals. It clarifies that Scottish Landfill Tax will be managed by the Tax Authority.

11. Defined terms used in this section:
   “taxable disposal” section 3
   “Tax Authority” section 34

Section 2 – Overview

12. Section 2 provides an overview of the Bill.

PART 2 – KEY CONCEPTS

13. Part 2 makes provision for the key concepts underlying the tax including:
   • taxable disposals,
   • exemptions,
   • powers to vary,
   • landfill sites and operators of landfill sites,
   • calculation of tax,
   • persons liable to pay tax,
   • credit.

Taxable disposals

Section 3 – Charge to tax

14. Section 3 defines “taxable disposal”. If a disposal involves something other than the disposal of waste by way of landfill or at a landfill site then it is not a taxable disposal and falls outwith the scope of Scottish Landfill Tax. At the time when the disposal occurs the land must be a landfill site or the disposal must have been carried out as if by way of landfill.
Section 4 – Disposal of material as waste

15. Section 4 provides that a disposal of material as waste is when a person disposes of material with the intention of discarding the material. It does not matter if the material could be beneficial; it is the act of discarding by way of landfill which makes the material taxable. If somebody carries out the disposal on behalf of another, either by being asked or as part of a contract, then the person on whose behalf the disposal is carried out is treated as making the disposal.

Section 5 – Disposal by way of landfill

16. Section 5 sets out what disposal by way of landfill is. It includes material on the surface of land, under the surface of land, in containers or on structures set into the surface of the land. The material can be covered after disposal or deposited in a cavity. If material is covered the deposit takes place when it is deposited not when it is covered. The Scottish Ministers may, by order, vary the meaning of disposal by landfill to amend any enactment or this Bill. This gives flexibility to define novel disposal techniques or unauthorised activities.

Section 6 – Prescribed landfill site activities to be treated as disposals

17. Section 6 gives the Scottish Ministers the power to prescribe activities which are to be treated as disposals. Such prescribed activities may have conditions attributed to them to define where the activity is carried out, for example in a designated area of the landfill, or that information regarding the activity or the material involved is provided. This section effectively gives the Scottish Ministers the power to define what type of activity involving certain materials may take place at particular locations on a landfill site in order to practically clarify taxable deposits.

Exemptions

Section 7 – Material removed from water

18. Section 7 ensures that necessary dredging operations and extraction operations are not hindered by the applicability of a tax to deposit the material. It provides that material removed from a river, canal, watercourse, dock or harbour is not a taxable deposit. It also exempts material removed from harbours, navigational interests, or parts of or projections from water beds, naturally occurring mineral material from commercial marine operations to obtain sand or gravel and other material added to such dredging and excavations to ensure that it is not a liquid waste.

Section 8 – Material resulting from mining and quarrying

19. Section 8 allows for naturally occurring material from mines and quarries to be exempt from Scottish Landfill Tax. This encourages suitable landfill cover material to be used at landfill sites. If the material has been altered chemically after extraction, or is from a process separate to the mining or quarrying operations, then it does not qualify for this exemption.

Section 9 – Disposal of qualifying material at former quarries

20. Section 9 exempts the disposal of qualifying material (defined in sections 13 and 14) in a quarry in respect of which it is a requirement of planning permission for the quarry to be refilled, either partially or fully, and which has a license or permit which allows only the disposal of...
qualifying material. This allows for the reinstatement of quarries which planning authorities have required to be reinstated without the burden of tax being imposed. Quarries that ceased operating before 1 October 1999 must have had the requirements to infill imposed on or before this date. This is to prevent the misuse of this exemption on old quarries with no reinstatement requirements.

Section 10 – Pet cemeteries

21. Section 10 provides for pet cemeteries to be exempt from Scottish Landfill Tax. Animal corpses are regarded as waste and cemeteries for pets require a permit as a landfill site. This exemption defines the disposal of dead domestic pets as a non-taxable disposal and allows for the activity to continue without the need to pay landfill tax.

Power to vary what is a taxable disposal

Section 11 – Taxable disposals: power to vary

22. Section 11 provides that the Scottish Ministers may make orders to change what activities are taxable. Existing taxable activities may be ordered to cease being taxable or non-taxable activities may be ordered to be taxable. The Tax Authority can issue certificates of exemption and make conditions prior to certificates being issued. This ensures that the process of exempting or removing exemptions from Scottish Landfill Tax is simple and efficient to adjust.

Landfill sites and operators of landfill sites

Section 12 – Landfill sites and operators of landfill sites

23. Section 12 provides that a landfill site is land which is covered by an authorisation under the Regulatory Reform (Scotland) Bill, currently being considered by the Parliament (an “authorised landfill site”), and that an operator of a landfill at a given time is the person who is considered to be the holder of the authorisation. The Regulatory Reform (Scotland) Bill will enable the integration of the permission arrangements of SEPA’s four main regimes (water, waste, radioactive waste and pollution prevention and control) and simplify the regulatory procedures.

24. Land is also a landfill site if an authorisation is required in relation to disposals on the land but no authorisation is in force (an “unauthorised site”).

Calculation of tax

Section 13 – Amount of tax

25. Section 13 provides that the Scottish Ministers may specify by order what the standard rate for Scottish Landfill Tax is and that they may also make orders to outline which material may be charged at a lower rate; these materials are referred to as “qualifying material”. The lower rate may also be specified by the Scottish Ministers by order. Both standard rate material and qualifying material are charged on a per tonne basis, and a proportionate amount for any additional part of a tonne or if less than one tonne is disposed of. The Scottish Ministers must set the criteria for determining qualifying material and review, revise and publish them from time to time. This ensures that the system for defining the rates of tax and qualifying material is flexible, adaptable and kept up to date.
Section 14 – Qualifying material: special provisions

26. Section 14 provides that the Tax Authority may direct that a deposit may be treated as qualifying material if it is qualifying material that is contaminated with a small amount of non-qualifying material. The direction may apply to all deposits by a person, or a quantity of the deposits and the quantity of non-qualifying material may be determined in the terms of the direction. The direction may be instigated by the Tax Authority or by request from a person. If a person requests the direction which is granted regarding a disposal then other directions regarding the disposal do not apply. The Scottish Ministers may, by order, ensure that conditions are met prior to material being treated as qualifying material. Such conditions may relate to whatever the Scottish Ministers think fit and can include documents stating the nature of the material. This section allows for small amounts of contamination to be contained in qualifying material but ensures that adequate controls are in place to prevent misuse.

Section 15 – Weight of material disposed of

27. Section 15 sets out that the Scottish Ministers may make regulations to define how the weight of taxable disposals is to be determined. Rules for determining weight may be prescribed to define the method of calculation, the time-scale for determining weight and what materials, such as water, are to be discounted. The rules may apply to only certain wastes or activities. The Tax Authority may remove rules when it is believed that they no longer give an accurate indication of weight.

Persons liable to pay tax

Section 16 – Liability to pay tax

28. Section 16 provides that the person who is liable to pay tax on a taxable disposal made at an authorised site is the person who is at the time of disposal the operator of the landfill site which constitutes or contains the land under which the disposal is made. In the case of an unauthorised site, both the person who made the disposal and anyone who knowingly permitted the disposal is jointly and severally liable.

Section 17 – Liability of controllers of landfill sites

29. Section 17 provides that the Scottish Ministers may, by regulations, make provisions for the controllers of landfill sites to pay the tax. A controller is a person who can determine what disposals may be made at a site or part of a site at that time, but who is not an employee or agent of another. The regulations may make provisions for who is a controller, when the controller is liable to pay tax, the amount of tax the controller is liable to pay, entitlement to credit in respect of tax and the arrangements for payment by a controller.

Credit

Section 18 – Credit: general

30. Section 18 provides that the Scottish Ministers may, by regulations, provide for a tax credit system, in so far as a person who has paid or is liable to pay tax may be entitled to credit providing prescribed conditions are fulfilled. The regulations may make provision for the manner in which a
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person is to benefit from credit. Over a defined accounting period a person can deduct the credit from the amount of tax due and may receive payment if the credit is greater than the amount of tax due. Tax credits may be carried over to a subsequent accounting period and the regulations may define how a person who ceased to be registrable can benefit from credit. Where a person fails to submit a return, the Tax Authority may withhold payment of credits until the person has complied with the requirement to submit a return. Regulations may provide the Tax Authority with the power to impose conditions with regard to payment or repayment as it sees fit. Regulations may require a person to make a claim in a return as required by section 25.

Section 19 – Credit: bad debts

31. Section 19 provides that the Scottish Ministers may, by regulations and subject to prescribed conditions, allow for a person who carries out a taxable activity for which the person has not been paid to be entitled to credit for that activity. It also provides that any credit should be repaid if the debt was not justified as being bad. Regulations may make provisions for determining whether, and to what extent, a debt is taken to be bad.

Section 20 – Credit: bodies concerned with the environment

32. Section 20 provides that regulations may be made to ensure that a person can be entitled to credit if the person pays a sum to a body whose objects are to protect the environment or other conditions as prescribed in the regulations. Regulations may require the bodies to which sums are paid, “environmental bodies”, to be approved by the Tax Authority. The sums which are paid are to be spent on matters which are prescribed by the regulations. Regulations can define the amount of credit available, including limitations to the amount of credit and may define the overheads associated with prescribed activities. They may make provisions for determining the allowable administration spends by environmental bodies and make provisions for an environmental body to remain approved only if it complies with conditions imposed by the Tax Authority. Provisions may also be made to withdraw approval of an environmental body by the Tax Authority. Regulations can provide for the Tax Authority to share the tax affairs of persons carrying out taxable activities which are relevant to the credit scheme. This section ensures that the funding of environmental bodies by the Landfill Tax Communities Fund can continue to operate in Scotland under a replacement fund.

PART 3 – ADMINISTRATION

33. Part 3 makes provision for—
   • registration,
   • administration arrangements for accounting for tax, and
   • other matters relating to the administration of the tax.

Taxable activities

Section 21 – Taxable activities

34. Section 21 provides that a person carries out a taxable activity if that person carries out a taxable disposal in respect of which that person is liable or permits somebody to carry out a taxable
These documents relate to the Landfill Tax (Scotland) Bill (SP Bill 28) as introduced in the Scottish Parliament on 17 April 2013

disposal in respect of which that person is liable. When a taxable disposal is made without the knowledge of the person who is liable to pay tax, then the person is taken to have permitted the disposal. This provision ensures that a landfill operator is responsible for all taxable disposals on their site.

Registration

Section 22 – Registration

35. Subsection (1) provides that the Tax Authority must maintain a register containing whatever information the Tax Authority deems necessary for the purposes of the collection and management of the tax. Subsections (2) to (8) set out the registration duties placed on the Tax Authority and a person who carries out taxable activities (described at section 21) as well as the notification duties placed on a person who forms the intention of carrying out taxable activities.

36. Subsection (9) contains a regulation-making power to allow the Scottish Ministers, if they so wish, to: state the timeframe within which a notification should be made to the Tax Authority; provide details on the format, content and method of sending the notification to the Tax Authority; place a duty on a person who has sent a notification to the Tax Authority to tell the Tax Authority if any of the information in the notification needs to be updated; set out how corrections will be made to entries in the register. Such regulations will be subject to the negative procedure (see section 41).

37. Subsection (10) provides that references in this Bill to a registrable person are to a person who is registered under or liable to be registered under this section.

Section 23 – Information required to keep register up to date

38. Section 23 contains a regulation-making power to allow the Scottish Ministers to require a registrable person to tell the Tax Authority of any change in that person’s circumstances (or any business carried on by the registrable person) which will enable the Tax Authority to ensure the register kept under section 22 is up to date. Such regulations will be subject to the negative procedure (see section 41).

Section 24 – Publication of the register.

39. Section 24 enables the Tax Authority to publish, by such means as it sees fit, information which is derived from the register kept under section 22 and which falls within any of the descriptions listed at subsection (2).

Accounting for tax

Section 25 – Accounting for tax and time for payment

40. Section 25 contains a regulation-making power to allow the Scottish Ministers to set out the format, frequency and manner of returns to be submitted by the registrable person. Such regulations will be subject to the negative procedure (see section 41).
Time of disposal where invoice issued

Section 26 – Time of disposal where invoice issued

41. Section 26 provides that the Scottish Ministers may, by way of regulations, define what information is required to be contained in a landfill invoice and that a landfill invoice must be issued with regard to a particular deposit within 14 days. Providing this happens, the disposal is to be treated as made at the time of the invoice issue and not at the time of disposal. The Tax Authority may, if requested by a person, agree to a longer invoicing period. This allows for timely information to be collected with regard to taxable deposits.

Adjustment of contracts

Section 27 – Adjustment of contracts

42. Section 27 provides that, when a contract is in place for the disposal of a waste in a landfill and the tax changes with regard to that waste, then the payment for that waste in the contract must increase to reflect the tax increase. This ensures that contractors do not suffer as a result of tax increases not being reflected in historical contracts.

Evidence about tax status

Section 28 – Evidence about tax status

43. Section 28 provides that a certificate (described at subsection (1)) issued by the Tax Authority is deemed to be sufficient evidence about a person’s tax status until the contrary is proved.

Recovery of overpaid tax

Section 29 – Recovery of overpaid tax

44. Section 29 sets out the conditions whereby the Tax Authority is liable to repay overpaid tax. Subsection (5) contains a regulation-making power to allow the Scottish Ministers to prescribe the form and manner of a claim made under this section and the documentary evidence required in support of said claim. Such regulations will be subject to the negative procedure (see section 41).

Information

Section 30 – Information: material at landfill sites

45. Section 30 contains a regulation-making power to allow the Scottish Ministers to make provision for the Tax Authority to obtain information relating to material at a landfill site or part of a landfill site. The regulations may: require a person to give information; make provision for “information areas” and the type of material that can be deposited in said areas; make provision about information relating to what is done with material.

Section 31 – Information: site restoration

46. Section 31 requires that before starting to restore all or part of a landfill site, the site operator must notify the Tax Authority in writing that restoration is to commence and further that the site
operator must provide any other written information the Tax Authority may ask for. Subsection (2) defines what the term “restoration” means in the context of this section and subsection (3) lists what are “relevant instruments” in the context of subsection (2).

Record keeping

Section 32 – Records: registrable persons

47. Section 32 contains a regulation-making power to allow the Scottish Ministers to require registrable persons, as defined in section 22(10), to make records. Registrable persons will be required to keep a record of the taxable activities they carry out. The regulations will prescribe the information that is required to be included in the record. Such regulations will be subject to the negative procedure (see section 41).

48. Subsection (4) provides that the duty to preserve records can be discharged by holding the records, or the information in them, in any form or by any means, in order to allow the records to be held in an electronic format.

Section 33 – Records: material at landfill sites

49. Section 33 contains a regulation-making power to allow the Scottish Ministers to require a person to make records relating to material at a landfill site. The regulations can make provision for records to be made about the nature of the material, or what is done with the material. Such regulations will be subject to the negative procedure (see section 41). Subsections (3) and (4) of section 32 are also applicable to regulations made under this section.

PART 4 – GENERAL AND INTERPRETATION

50. Part 4 contains general provisions, including provision about the Tax Authority and definitions of expressions used in the Bill.

The Tax Authority

Section 34 – The Tax Authority

51. Section 34 defines the Tax Authority as the Scottish Ministers. The Tax Authority has responsibility for the collection and management of Scottish Landfill Tax (see section 1(2)).

52. Subsection (2) confers a power on the Scottish Ministers to provide by order that another person is the Tax Authority. This provision could be used to allow for Revenue Scotland to become the Tax Authority, at a future point when Revenue Scotland has a legal personality separate to that of the Scottish Ministers and subject to parliamentary agreement of provisions for Revenue Scotland. Such an order will be subject to the affirmative procedure (see section 41).
Section 35 – Delegation of functions to SEPA

53. Section 35 allows for the delegation of Tax Authority functions to the Scottish Environment Protection Agency (SEPA). The administration and collection of Scottish Landfill Tax will be undertaken by SEPA.

Section 36 – Review and appeal

54. Section 36 confers a power on the Scottish Ministers to make provision by regulations for the review and appeal of Tax Authority decisions. Such regulations will be subject to the affirmative procedure if they modify the Bill itself. Otherwise, they will be subject to the negative procedure (see section 41).

Application of act to partnerships, groups of companies etc.

Section 37 – Partnership, bankruptcy, transfer of business etc.

55. Section 37 provides that the Scottish Ministers may, by regulations, make provision for determining the requirements of a partnership to comply with the tax. The Tax Authority may determine what divisions of a corporate body are registrable and liable for Landfill Tax, as well as named unincorporated bodies regardless of any changes of membership. The Scottish Ministers may make regulations to require the person carrying on the business after a death, bankruptcy, sequestration, liquidation, receivership or administration to inform the Tax Authority who is carrying on the business and of the event that led to them carrying it on. For a limited time such a person can be treated as the original registered person to ensure continuity of the Landfill Tax applicability. The Scottish Ministers may also make regulations to ensure continuity during the transfer of a business as a going concern, including requiring the transferor to inform the Tax Authority of the transfer, providing for any liabilities and duties under the Act to become those of the transferee and providing for any right to repayments or credit to be satisfied by making a repayment or allowing credit.

Section 38 – Groups of companies

56. Section 38 provides for how groups of companies and members of groups are to be treated with regard to tax liabilities. This includes providing that groups of companies are liable through their representative member carrying out taxable activities (section 21) and that two or more corporate bodies can be considered a group as long as one or two persons (corporate or individuals) control them all, and they have an established place of business in the United Kingdom.

57. Subsections (4) to (9) set out the conditions of the application for group treatment and that a successful application will take effect from the following accounting period. Subsection (10) states that if a group stops being controlled by the persons then the group will no longer be treated as a group. Subsection (11) states that an application must be made by the bodies or person controlling them and that the application should be made 90 days before the group status is to take effect. Subsection (12) sets out the conditions by which a corporate body or individuals will be deemed to control another corporate body, mainly if the corporate body is the latter body’s holding company within the meaning of section 1159 and Schedule 6 of the Companies Act 2006 or, in the case of individuals, would be were the individuals a company.
These documents relate to the Landfill Tax (Scotland) Bill (SP Bill 28) as introduced in the Scottish Parliament on 17 April 2013

**Interpretation**

**Section 39 – Interpretation**

58. Section 39 sets out certain definitions used in the Bill.

**PART 5 – FINAL PROVISIONS**

59. Part 5 contains provisions on subordinate legislation powers and commencement as well as other final provisions.

**Ancillary provision**

**Section 40 – Ancillary provision**

60. Section 40 empowers the Scottish Ministers to make ancillary provision by order concerning Scottish Landfill Tax. Orders under this section will be subject to the affirmative procedure if they modify an Act.

**Subordinate legislation**

**Section 41 – Subordinate legislation**

61. Section 41 sets out general provisions for subordinate legislation under the Bill.

**Crown application**

**Section 42 – Crown application**

62. Section 42 provides that the Bill does not apply to Her Majesty in Her private capacity. By virtue of section 20 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10), the Bill otherwise applies to the Crown.

**Commencement and short title**

**Section 43 – Commencement**

63. Section 43 provides for the commencement of the Bill.

**Section 44 – Short title**

64. Section 44 sets out the short title of the Bill.
FINANCIAL MEMORANDUM

INTRODUCTION

1. This document relates to the Landfill Tax (Scotland) Bill (“the Bill”) introduced in the Scottish Parliament on 17 April 2013. It has been prepared by the Scottish Government, to satisfy Rule 9.3.2 of the Parliament’s Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament.

BACKGROUND

The Scotland Act 2012 and Landfill Tax

2. The Bill is the second of three related Bills being brought forward as a consequence of measures enacted in the Scotland Act 2012 (“the 2012 Act”). The Bill follows the Land and Buildings Transaction Tax (Scotland) Bill in the current session, and precedes the Tax Management Bill that will introduce arrangements for tax management. The Bill makes provisions for a Scottish tax on disposals to landfill, to be called the Scottish Landfill Tax (a distinction has been given to the Scottish tax to avoid confusion in any UK legislation which might list the Scottish tax alongside the continuing Landfill Tax for England and Wales and Northern Ireland). The 2012 Act allows for the disapplication of the UK Landfill Tax in Scotland from a date to be set by the Treasury by order. The present policy of the UK Government is that this order will take effect from April 2015. The order-making power is set out in section 31(4) of the 2012 Act.

3. The intention is that the provisions introducing the Scottish Landfill Tax will come into force as soon as the UK system is dis-applied. At that point, in order to ensure the continued collection of tax receipts, the Scottish Government wishes to have in place arrangements for the management and collection of the Scottish Landfill Tax. From that day on, the Scottish Consolidated Fund (“SCF”) will receive all receipts raised in respect of the tax on disposals to landfill in Scotland.

4. There will be a loss of receipts to the UK Government from the withdrawal of UK Landfill Tax in Scotland. The UK Government will consequently make a corresponding adjustment to the Scottish block grant. These arrangements are explained in pages 30 and 31 of the Command Paper, issued by the UK Government when the Scotland Bill was introduced in Westminster on 30 November 2010.3 Neither this Bill nor this Memorandum deal with adjustments to the Scottish block grant. The block grant adjustment was discussed by the Scottish and UK Governments prior to the passing by the Scottish Parliament of the Legislative Consent Motion for the (then) Scotland Bill in April 2012. The agreement reached on the process for arriving at block grant adjustments and other matters was set out in an exchange of published letters between the Cabinet Secretary for

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3 The UK Government Command Paper is available at: http://www.scotlandoffice.gov.uk/scotlandoffice/14692.394.html
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Parliamentary Business and Government Strategy and the Secretary of State for Scotland, on 20 and 21 March 2012.4

5. The relevant passage says:

“We will seek the Scottish Parliament's agreement to changes to Scotland's funding arrangements, now and in the future, in order to provide democratic oversight and assurance that Scotland's interests are being properly considered.”

6. The formula for calculating the adjustment in respect of UK Landfill Tax is under discussion between Ministers of the Scottish and UK Governments and is due to be agreed in the first half of 2013.

Overview of landfill impacts and costs

7. UK Landfill Tax was the first 'green tax' in the UK. The original aim of the tax, as set out in the UK Waste Strategy5 was:

“to ensure that landfill costs reflect environmental impact thereby encouraging business and consumers, in a cost effective and non-regulatory manner, to produce less waste; to recover value from more of the waste that is produced; and to dispose of less waste in landfill sites.”

8. As with other environmental taxes, it also aims to ensure that the environmental impacts of disposing of waste to landfill are captured within the market prices of landfill.

9. More specifically, the tax reflects the significant impact that landfilling has on the environment – greenhouse gas (GHG) emissions, risk of soil and water pollution through chemical leaching and general dis-amenity including noise, odour and dust. By ensuring that waste producers incorporate the full cost of waste disposal into business decisions, UK Landfill Tax encourages the development of sustainable waste management options, including waste prevention, reuse, recycling and anaerobic digestion. Since 1997, the tax has contributed to a 32% reduction in the proportion of waste sent to landfill and a similar increase in recycling. Across the UK, the tax is estimated to save in the region of 0.7 million tonnes of carbon dioxide equivalent emissions a year.6

10. The pattern of historic receipts reflects a number of important trends in disposals to landfill, as well as past policies. The most significant of these was the introduction of the UK Landfill Tax escalator by the UK Government on 1 April 2011. This escalator has raised the standard rate of UK Landfill Tax by £8 per tonne each year since introduction. The escalator will result in the tax rate reaching £80 per tonne in 2014-15, at which point the UK policy is that tax rates will be stabilised. The escalator has reduced the amount of materials landfilled and has helped create a viable market for alternatives to landfill, including recycling, waste prevention and energy from waste. Although the escalator has increased revenue for the tax in the short term, it has resulted in a significant reduction in the amount of material landfilled and so, over time, tax revenues are expected to decline.

4 http://www.scottish.parliament.uk/S4_PublicAuditCommittee/Meeting%20Papers/Joint_Exchequer.pdf
5 http://www.scotland.gov.uk/Publications/2012/10/3524/14
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Table 1  Historic receipts, Office of Budget Responsibility (OBR)\(^7\)

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<td>85</td>
<td>97</td>
</tr>
<tr>
<td>Scottish Share</td>
<td>9.50%</td>
<td>10.00%</td>
<td>9.50%</td>
<td>9.00%</td>
<td>8.90%</td>
</tr>
</tbody>
</table>

11. The financial savings that can be made through adopting alternatives to landfill are now central to the economics of waste management, and the tax has helped establish the stable policy landscape needed to underpin long-term investment decisions on alternatives to landfill, including recycling collection systems and residual waste treatment infrastructure such as fuel production plants and incineration.

12. By raising the costs of landfill to a figure that better reflects the true costs to the environment, UK Landfill Tax has helped to realise the following wider benefits to Scotland’s environment and economy:

- climate change mitigation;
- reducing dependence on raw materials in an increasingly cost volatile market;
- creating investment in infrastructure, jobs and skills;
- providing new recycled materials for use in sustainable manufacturing outlets.
- driving efficiencies across supply chains by designing out waste.

13. All methods of waste disposal result in environmental and social impacts. Economic costs of these impacts are often not reflected in the financial costs charged by waste disposal facilities. Therefore the environmental and social costs can be described as being external to the main financial costs; they can thus be referred to as externalities.

14. Greenhouse gas emissions are formed when organic materials break down to form carbon dioxide (CO2) and methane (CH4). Placing a monetary value on these CO2 and CH4 emissions is done by reference to a wide body of work on the damage costs to climate/social costs. These depend upon the material landfilled (how much methane is generated), the efficiency with which this is captured for flaring/energy generation, and the extent to which the landfill cap oxidises the methane, converting it to carbon dioxide. The carbon effects of landfill can be valued using Guidance from DECC/HM Treasury.\(^8\)

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15. A further environmental impact comes from pollutants associated with landfill emissions and the combusted biogas. These impacts are generally regarded as small in comparison to the impact of methane, and are mitigated by the adoption of stringent environmental permitting and the adoption of best practice operations by landfill operators. The Intergovernmental Panel on Costs and Benefits agrees damage costs for key pollutants for use in policy appraisal.

16. A 2003 study\(^9\) found firm evidence of a statistically significant impact on house prices within a half-mile of a landfill site. Scotland saw house price reductions of 41.3% within a 0.25 mile radius of a landfill, compared to a Great Britain average of 7%. Residents living in close vicinity to landfill sites experience general dis-amenity including noise, odour, dust and the impacts of increased heavy vehicle movements. The tax credit scheme that accompanies the UK Landfill Tax creates a mechanism to help offset these local impacts by directing toward local environmental projects contributions from landfill operators which earn credit against UK Landfill Tax liabilities. The Bill includes provision to establish a similar tax credit scheme in Scotland, and to direct proceeds toward local projects (paragraphs 47 and 48 provide further details).

17. Lastly, landfill locks away valuable material resources (including plastics, textiles, metals, organics) that when channelled into alternative recycling, recovery and reprocessing routes have real world value and support jobs, infrastructure and the development of the burgeoning resource management sector in Scotland.

18. It is difficult to accurately assess the overall impacts of landfill as the amount and composition of materials sent to landfill continually change as a consequence of UK Landfill Tax and zero waste policies. To provide an indication of the wider costs and benefits of landfill (above and beyond tax receipts) and the contribution of UK Landfill Tax to the Scottish economy, the Scottish Government commissioned work to examine the implications of not replacing UK Landfill Tax in 2015 when the UK system is dis-applied from Scotland. This work drew on recognised methods of monetising environmental impacts, social impacts (for example the impact of landfill on house prices), information on the value of recyclable materials, as well as the costs of alternatives to landfill. The results indicated that between 2015 and 2025 the establishment of a Scottish Landfill Tax (set at similar rates to the current UK tax) will contribute in the region of £2.79 billion over the first 10 years of the tax compared to a scenario where a replacement Landfill Tax is not established.

19. Further details of this work and the costs and benefits of the Scottish Landfill Tax to the Scottish economy are provided in the Partial Business and Regulatory Impact Assessment that accompanies this Bill.\(^10\) The Final Business and Regulatory Impact Assessment will be published at the end of April 2013.

GENERAL

20. The financial implications of this Bill have been considered under the following headings:

I The financial implications for the Scottish Administration (paragraphs 21-49).

II The costs on local authorities and other public bodies (paragraphs 50-57).


\(^10\) http://www.scotland.gov.uk/Publications/2012/10/3524/12
FINANCIAL IMPLICATIONS FOR THE SCOTTISH ADMINISTRATION

21. The financial implications for the Scottish Administration have been considered under three sub-headings:

A. Implications for the Scottish budget of Scottish Landfill Tax from Scottish Landfill Tax receipts. Tax receipts will vary depending on the amount and composition of material sent to landfill and the tax rates set. Rates will be set by subordinate legislation by way of an Order, prior to the introduction of the tax in April 2015 (see paragraphs 24-36);

B. The costs to the Scottish Government of setting up and running a new Scottish tax administration function ("Revenue Scotland"). The Bill defines the "Tax Authority" as the Scottish Ministers but will allow them, through an order, to name another body as the Tax Authority. The intention is that this provision will be used to establish Revenue Scotland (currently part of the Scottish Government) as the Tax Authority, subject to Parliamentary agreement to the necessary provisions, which will be set out in the Tax Management Bill (see paragraphs 37-43); and

C. The administrative and compliance costs which will arise as a result of the Scottish Environment Protection Agency ("SEPA") taking on operational responsibility for the collection of Scottish Landfill Tax (see paragraphs 44-49).

22. The estimated costs cover the implementation of Bill from 2013; they do not include the costs of legislating to bring Scottish Landfill Tax into existence. In practice, costs of legislating will be borne within the existing administration budgets of the Scottish Government and the Scottish Parliament. Nor do the costs include the anticipated one-off costs associated with the "switch-off" of the UK taxes in Scotland which will be incurred by HMRC and charged to the Scottish Government. Further planning work needs to be undertaken before estimates are available. HMRC has indicated that it will be able to provide cost estimates by summer 2013. It should be noted that these "switch-off" costs are not a result of this Bill and would be applicable in any case.

23. There will be some minor on-going administrative costs on the Scottish Government as a result of this Bill - for example, to provide Ministers with advice on Scottish Landfill Tax policy. The Scottish Government considers that these costs, which will be met from existing administration cost budgets, are not material.

A. Implications for the Scottish budget from Landfill Tax receipts

24. The net effect on the total Scottish budget depends on tax receipts offset by the block grant adjustment. As explained above, this Memorandum does not discuss the block grant adjustment. However, without this Bill and a corresponding replacement tax on disposals to landfill, the Scottish Government would lose tax revenue.

25. In most respects, the Scottish system will be similar in form and function to the current UK system. The tax rates will be set in subordinate legislation, with the approval of the Scottish
Parliament. Scottish Ministers have indicated that they intend to initially set rates at a level that is no lower than the UK tax rate in 2015.

26. The proposal to initially set rates to closely mirror the UK landfill tax system was made following feedback from stakeholders, who saw it as important in maintaining the basis on which investment decisions have been and are being made at a time when Scotland is making progress in implementing its Zero Waste Policy intentions. It is also likely that differential landfill tax rates with the rest of the UK would encourage waste to move across the Scottish border.

27. Tax rates will be set by order made by the Scottish Government with the approval of the Scottish Parliament later in the process before the tax comes into force. In line with the announced intention of the Scottish Government, this Financial Memorandum assumes that the Scottish tax rates will mirror UK rates in 2015-16 meaning that the standard rate, for active materials, would be set at £80 a tonne, and the lower rate, for inactive material, would be set at £2.50 a tonne.

28. The Office of Budget Responsibility (OBR) forecasts the following tax receipts for Scotland based on a continuation of the UK landfill. These are based on an assumption that Scottish receipts form 9.1% of total UK receipts (Dec 2012):

<table>
<thead>
<tr>
<th>Table 2 Forecast receipts (OBR)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>£ million</strong></td>
</tr>
</tbody>
</table>

29. The OBR forecast does not take into account Scottish-specific policies that will affect the amount of material disposed of to landfill, including the Scottish Zero Waste targets (70% recycling) and the recent Waste Regulations (Scotland) 2012. Relevant measures introduced by the Regulations include:

- a requirement for businesses to present dry recyclables (metals, plastics, paper, card and glass) and food waste of more than 50 kg/week for collection from the end of 2013, with those producing less than 50kg/week exempt until the end of 2015;
- a requirement on local authorities to provide householders with a collection service for dry recyclables (end 2013) and food waste (end 2015);
- a ban on materials collected separately for recycling going to landfill or incineration (end 2013); and
- a ban on biodegradable municipal waste going to landfill, thus helping to substantially reduce harmful emissions of methane (end 2020).

30. The Scottish Government expects the net effect will be for landfill tonnages in Scotland to significantly decrease over the coming decade with a corresponding reduction in receipts. The Scottish Government’s analysis of these trends suggests that receipts will drop by 62% and stabilise in 2025 at around 38% of the receipts in 2010-11, assuming no further escalation in tax rates.
31. The Bill includes provisions that will allow the tax collection authority to pursue taxes evaded through illegal dumping of waste. Making the illegal disposal of material taxable will act as a significant deterrent to illegal activity, and will support reputable organisations that uphold Duty of Care guidelines and abide by the Pollution Prevention and Control Regulations. The Government’s intentions are explained further at paragraph 42 of the Policy Memorandum.

32. Some increase in revenue should arise from taxing illegal dumping of waste. Given the nature of illegal disposals it is not possible to estimate the likely level of additional receipts. However, SEPA estimates that in a recent case resulting in a conviction for illegal dumping of waste, around £3 million in tax may have been evaded.

33. Based on the above information, the Scottish Government estimates that this Bill will generate revenue of around £107m in 2015-2016, dropping to around £40.5m in 2025. As outlined above, these estimates are based on a number of assumptions on tax rates and future trends in how waste is managed in Scotland, which introduce considerable uncertainties in forecasting tax revenue.

34. As a landfill tax already exists in Scotland under the UK system, there will be no significant immediate changes in revenue for the Scottish Budget from this Bill. Longer-term, if tax rates are changed, or new rates are introduced, then there would be consequent effects on the revenue generated from this tax.

35. The Partial Business and Regulatory Impact Assessment provides a fuller analysis of the economic implications of a Scottish Landfill Tax. This includes a macroeconomic assessment of the implications of the tax on economic development and protecting scarce resources, as well as an analysis of the externalities (environmental and social costs) of landfill.

36. The Scottish Government will track the impacts of its Scottish Landfill Tax policy, landfill trends, alternatives to landfill (including energy from waste), activities exempt from waste permitting, recyclate markets, fuel markets, commodity markets and the way materials flow through the Scottish economy. The Scottish Government will use this information to inform future policies for Scottish Landfill Tax, including policy on tax rates.

B. Costs to the Scottish Government of establishing and running Revenue Scotland

37. The Cabinet Secretary for Finance, Employment and Sustainable Growth indicated in his statement to the Parliament on 7 June 2012\(^ {11}\) that the Government intended to establish a tax administration function (Revenue Scotland) to administer both Land and Buildings Transaction Tax (“LBTT”) and Landfill Tax in Scotland. The Cabinet Secretary stated that:

“We will establish a tax administration function for assessing and collecting both taxes here in Scotland. The function, which I propose to name Revenue Scotland, will be established this year. By 2015, in line with international best practice, it will be operationally independent and its governance enshrined in legislation.”

\(^ {11}\)http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=7311&mode=html
38. Revenue Scotland has been set up as an administrative entity within the Scottish Government. The first Head of Revenue Scotland was appointed in October 2012. Legislation to place Revenue Scotland on a statutory footing will be made, subject to the agreement of the Parliament, in the Tax Management Bill, to be introduced later in 2013. As the Cabinet Secretary announced, Revenue Scotland will have a structure and constitution designed so that it is operationally independent of Scottish Ministers.

39. The Scottish Government will meet the costs of establishing and running Revenue Scotland. The estimated costs given below for both Revenue Scotland and SEPA are as provided to the Scottish Parliament in June 2012. These estimated costs reflected work done on the various functions needed to operate the taxes. More detailed planning is now underway on administrative systems needed to operate both LBTT and the Scottish Landfill Tax and on the allocation of tasks between Revenue Scotland and SEPA. This work includes development of a more detailed timetable for the tasks required and of a profile for estimated expenditure. Updated costs and timescales will be provided to the Parliament when they are available.

40. Staff costs are based on average costs for Scottish Government staff in summer 2012 and take account of average basic salary for the grades in question, Accruing Superannuation Liability Charge, Earnings-Related National Insurance Contribution and any non-consolidated award.

41. As noted, Revenue Scotland will oversee the administration of both LBTT and the Scottish Landfill Tax. The administration costs attributable to the Scottish Landfill Tax and, therefore, to this Bill will arise both in Revenue Scotland and SEPA. At this stage in planning there is insufficient information to support an attribution of Revenue Scotland costs between LBTT and the Scottish Landfill Tax. While total estimated costs for Revenue Scotland are given in tables 3 to 6 below, only a proportion of these costs will be attributable to the administration of the Scottish Landfill Tax.

42. Revenue Scotland costs have been broken down under two headings: set-up costs and running costs, split between staff and non-staff costs. Set-up costs are those estimated to be incurred from June 2013 to March 2015 in respect of both devolved taxes (tables 3 and 4). Costs are rounded to the nearest £5,000. Note that planning work is already underway so some modest staff and other costs have been incurred before April 201312:

Table 3 Summary of Revenue Scotland set-up costs (staff)

<table>
<thead>
<tr>
<th>Function</th>
<th>Cost per year (£000)</th>
<th>Period</th>
<th>Total cost (£000)</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior Management</td>
<td>130</td>
<td>June 2013 to March 2015</td>
<td>240</td>
<td>Head of Revenue Scotland (0.3 fte SCS Pay Band 2), Chief Operating Officer (SCS Pay Band 1)</td>
</tr>
<tr>
<td>Tax Administration</td>
<td>116</td>
<td>June 2013 to March 2015</td>
<td>210</td>
<td>Programme Manager (Band C) and Programme Officer (Band B)</td>
</tr>
<tr>
<td>Revenue Scotland</td>
<td>232</td>
<td>June 2013 to March 2015</td>
<td>425</td>
<td>2 Teams, each 1 Band C and 1</td>
</tr>
</tbody>
</table>

12 This information was originally lodged with SPICe, on behalf of the Cabinet Secretary for Finance, Employment and Sustainable Growth on 14 June 2012.
Development March 2015 Band B, developing internal systems, procedures, policies, capacity and communications.
Revenue Scotland Appeals, Disputes & Compliance October 2014 to March 2015 Costed on assumption of around 10 staff, averaging Band B.
Administrative support June 2013 to March 2015 2 Band A staff providing administrative support to all above teams

Table 4 Summary of Revenue Scotland set-up costs (non-staff)

<table>
<thead>
<tr>
<th>Function</th>
<th>Set-up Costs (£000)</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Systems</td>
<td>80</td>
<td>This cost includes the hardware set-up costs for the staff together with the costs of establishing the website but assumes a tax collection system design which does not require central database development at Revenue Scotland. A different design may be chosen and costs will only be known following detailed design and procurement.</td>
</tr>
<tr>
<td>Communications and branding</td>
<td>75</td>
<td>Need to promote awareness of Revenue Scotland and devolved taxes.</td>
</tr>
<tr>
<td>Standard running costs for unit from June 2013 - 31 March 2015.</td>
<td>200</td>
<td>Training, travel and subsistence and accommodation costs for staff.</td>
</tr>
<tr>
<td>Contingency</td>
<td>100</td>
<td>Allowance for underestimates in above figures.</td>
</tr>
<tr>
<td>Totals</td>
<td>455</td>
<td>No VAT chargeable on this</td>
</tr>
</tbody>
</table>

43. Total annual running costs estimated from April 2015 onwards for all Revenue Scotland functions, including Scottish Landfill Tax and LBTT (rounded to the nearest £5,000) are shown in Tables 5 and 6.

Table 5 Summary of annual Revenue Scotland running costs (staff)

<table>
<thead>
<tr>
<th>Function</th>
<th>Running Cost (£000)</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior Management</td>
<td>220</td>
<td>Chief Executive SCS Pay Band 2, Chief Operating Officer SCS Pay Band 1</td>
</tr>
<tr>
<td>Compliance</td>
<td>350</td>
<td>Team of 8 staff, assume 2 band C, 6 band B</td>
</tr>
<tr>
<td>Disputes and Appeals</td>
<td>280</td>
<td>2 band C solicitors plus band B support</td>
</tr>
<tr>
<td>Communications and complaints</td>
<td>240</td>
<td>Band C plus 5 band B staff to manage web and print communications, limited helpline and complaints. This may need to be revised once further development work is done on communications.</td>
</tr>
</tbody>
</table>

22
These documents relate to the Landfill Tax (Scotland) Bill (SP Bill 28) as introduced in the Scottish Parliament on 17 April 2013

<table>
<thead>
<tr>
<th>Planning and Development</th>
<th>125</th>
<th>Band C plus 2 band B staff covering planning and reporting and further system development</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative support</td>
<td>100</td>
<td>4 Band A staff supporting all above teams |</td>
</tr>
<tr>
<td>Contingency</td>
<td>155</td>
<td>Allowance for underestimates in all above figures |</td>
</tr>
<tr>
<td>Total</td>
<td>1470</td>
<td>No VAT charged on this |</td>
</tr>
</tbody>
</table>

**Table 6** Summary of annual Revenue Scotland running costs (non-staff)

<table>
<thead>
<tr>
<th>Function</th>
<th>Running Cost (£000)</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard running costs</td>
<td>170</td>
<td>Travel training and accommodation.</td>
</tr>
<tr>
<td>IT systems support</td>
<td>50</td>
<td>Assume that receipts will be remitted direct to Scottish Government by collection agents; systems required for case management, appeals administration, performance management of contracts</td>
</tr>
<tr>
<td>Website maintenance and production and updating of on-line guidance</td>
<td>50</td>
<td></td>
</tr>
<tr>
<td>Appeals against LBTT charges</td>
<td>120</td>
<td>Costed on a basis comparable to SEPA costing for Scottish Landfill Tax appeals; assumption of up to 20 appeals per year. Non-staff cost</td>
</tr>
<tr>
<td>Legal outsourcing/debt recovery contracts</td>
<td>100</td>
<td>Non-staff cost</td>
</tr>
<tr>
<td>Contingency</td>
<td>250</td>
<td>Allowance for underestimates in all above figures |</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>740</strong></td>
<td>No VAT charged on this |</td>
</tr>
</tbody>
</table>

C. **Costs to the Scottish Government of SEPA collecting Landfill Tax**

44. The Scottish Government has announced its intention that Revenue Scotland will delegate operational responsibility for the collection of Scottish Landfill Tax to SEPA. SEPA’s estimated costs, like those for Revenue Scotland, have been broken down under two headings, set-up costs (incurred from April 2013 to March 2015) and running costs (i.e. the on-going costs of collecting Scottish Landfill Tax from 1 April 2015). The estimated costs identified by SEPA have been prepared on the following assumptions:

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13 [http://www.scotland.gov.uk/Publications/2012/10/3524](http://www.scotland.gov.uk/Publications/2012/10/3524)
that it will have a collection and compliance role. (Further planning work is required to decide on the respective roles that Revenue Scotland and SEPA will have in relation to compliance activity);

that the tax will be introduced as planned in 2015 and as described in the public consultation documents that have been published.

45. SEPA is partially self-financing from the income it receives for the environmental protection services it provides. The additional costs of administering the Scottish Landfill Tax will be agreed with and met by the Scottish Government. Tables 7 and 8 set out the estimated set-up and running costs (incurred from 1 April 2015 onwards) for SEPA. The estimates have been rounded to the nearest £5,000.

Table 7 Estimated set-up costs: Scottish Environment Protection Agency

<table>
<thead>
<tr>
<th>Function</th>
<th>Set-up Cost (£000)</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff training</td>
<td>25</td>
<td>1 month training for x members of SEPA staff involved in this work</td>
</tr>
<tr>
<td>Develop guidance for staff</td>
<td>75</td>
<td></td>
</tr>
<tr>
<td>Costs to SEPA of setting up IT systems</td>
<td>350</td>
<td></td>
</tr>
<tr>
<td>Contribution to policy and legislative development in 2013-14</td>
<td>50</td>
<td>Includes development of landfill communities fund or equivalent</td>
</tr>
<tr>
<td>Costs associated with promoting new Scottish Landfill Tax arrangements</td>
<td>15</td>
<td>Shared among existing staff – allowance for modest increase in staff on fixed term basis (0.5 post for 6 months)</td>
</tr>
<tr>
<td>Training for landfill operators staff</td>
<td>25</td>
<td>Assumes 1 day per landfill site plus development time.</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>540</strong></td>
<td>Excluding VAT – chargeable and recoverable</td>
</tr>
</tbody>
</table>
These documents relate to the Landfill Tax (Scotland) Bill (SP Bill 28) as introduced in the Scottish Parliament on 17 April 2013

Table 8  Annual running costs: Scottish Environment Protection Agency

<table>
<thead>
<tr>
<th>Function</th>
<th>Running Cost (£000)</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional registration work</td>
<td>10</td>
<td>Shared among existing staff – allowance for modest increase in staff (1 post) for registration and declaration work</td>
</tr>
<tr>
<td>Additional declaration work</td>
<td>50</td>
<td>Shared among existing staff – allowance for modest increase in staff (1 post) for registration and declaration work</td>
</tr>
<tr>
<td>Risk assessment, compliance activity, ensuring debt collection</td>
<td>75</td>
<td></td>
</tr>
<tr>
<td>Appeals against tax charges</td>
<td>30</td>
<td>Assumes administration required of 5 to 10 appeals a year</td>
</tr>
<tr>
<td>General enquiries from taxpayers / helpdesk</td>
<td>35</td>
<td>1 additional administrative member of staff</td>
</tr>
<tr>
<td>Management and liaison with RS</td>
<td>50</td>
<td>1 additional executive member of staff</td>
</tr>
<tr>
<td>Systems, travel</td>
<td>50</td>
<td>Likely to be absorbed within existing work; allowance made for possible increase in IT system maintenance etc work</td>
</tr>
<tr>
<td>Total</td>
<td>300</td>
<td>Excluding VAT chargeable and recoverable</td>
</tr>
</tbody>
</table>

46. By drawing on SEPA’s existing knowledge and expertise in regulating landfill sites, there are opportunities to deliver significant efficiencies and other operational benefits. For instance, SEPA will be able to draw on existing enforcement staff and site visits to streamline processes and reduce administrative burdens on landfill operators. Furthermore, it should be possible for SEPA to build tax return systems with existing permitting and data returns.

Tax credit scheme

47. The UK Landfill Tax Communities Fund (LCF) is a tax credit scheme that enables operators of landfill sites to contribute money to enrolled environmental bodies to carry out projects that meet environmental and community based objectives, and to offset their landfill tax liabilities up to a maximum of 6.8% of these liabilities. The scheme is intended to offset the dis-amenity of living within close proximity of a landfill site (for example see paragraph 16). The exiting scheme is part of the UK Landfill Tax arrangements and will cease to exist in Scotland from 1 April 2015.

48. The Scottish Government has announced its intention to establish a replacement for the landfill communities fund in Scotland, with operators able to offset their tax liabilities by contributing to the fund. It is intended that the proportion of an operator’s liabilities that can be offset will be increased by 10% from current levels, meaning that the existing UK cap of 5.6% of total liabilities will rise to 6.16% of liabilities. Rates will be set in subordinate legislation. If all landfill operators took full advantage of the proposed Scottish tax credit scheme, the effect would be to reduce revenues to the Scottish Government by £6.16 million for every £100 million of gross
revenues. Under existing arrangements, revenues to the UK Exchequer would be reduced by a maximum of £5.6 million

Cost Summary

49. Revenue Scotland and the Scottish Environment Protection Agency (SEPA) will collect, enforce and regulate the tax. Their total estimated costs, summarised from tables 3 to 8 above, are set out in Tables 9 and 10:

<table>
<thead>
<tr>
<th>Table 9</th>
<th>Revenue Scotland costs (for both devolved taxes: Land and Buildings Transaction Tax and Scottish landfill Tax)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Revenue Scotland</strong></td>
</tr>
<tr>
<td>Set-up costs</td>
<td></td>
</tr>
<tr>
<td>Annual running costs</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table 10</th>
<th>Collection and enforcement of Scottish Landfill Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>SEPA</strong></td>
</tr>
<tr>
<td>Set-up costs</td>
<td></td>
</tr>
<tr>
<td>Annual running costs</td>
<td></td>
</tr>
</tbody>
</table>

II. COSTS ON LOCAL AUTHORITIES AND OTHER PUBLIC BODIES

50. Local authorities and other public bodies, as organisations who produce waste and must contract to have it collected and treated or disposed of, are subject to UK Landfill Tax at present and will be subject to Scottish Landfill Tax under the Scottish system.

51. The costs of dealing with their waste depend on a number of factors, including:

- how much materials can be diverted to recycling or reuse;
- how much waste can be prevented; and
- for waste that can’t be avoided or recycled or reused, the availability and costs of alternatives to landfill (e.g incineration).

52. Costs will also be dependent on the rates set for Scottish Landfill Tax. Rates and bands will not be set until closer to the time at which they will come into force.

53. Across the public sector estate, local authorities are the largest UK Landfill Tax payer. This is simply because they must deal with Scotland’s household waste.

54. The Scottish Government does not currently hold any direct information on UK Landfill Tax paid by LA’s or the public sector estate. To give an estimate of the amount paid by local authorities, the Scottish Government has used official waste reporting figures to assess the amount of waste landfilled by local authorities across Scotland and to estimate the tax receipts. Simple assumptions on the split between standard and lower tax rates have been used. Applying this approach, the Scottish Government estimates that around £86 million of the estimated £97 million paid in
Scotland in UK Landfill Tax in the 2010-11 financial year was paid by Scottish local authorities. The remainder is paid by other public sector bodies that generate waste, and by private sector operators.

55. Employing the same assumptions set out in Section A, the Scottish Government estimates that this Bill will cost local authorities in the region of £94m in tax in 2015-16, dropping to around £35m in 2025. However, as the tax already exists, there will be no significant change in net tax costs to local authorities or the wider public sector from this Bill.

56. As outlined at paragraph 29, estimating future Scottish Landfill Tax receipts is challenging due to the number of variables influencing waste behaviours, including the impact of improvements in recycling services, the impact of work to prevent waste and promote reuse, and the availability and costs of alternatives to landfill. This introduces significant uncertainties in forecasting tax receipts.

57. In terms of any net administrative and compliance costs, the Scottish Government does not expect that there will be a material change in costs falling on these bodies as a result of removing the UK tax system and introducing a Scottish system. The Scottish Government expects that Revenue Scotland and SEPA will consult end-users of the replacement tax system, as part of its development of the online system and that it will seek to provide systems that minimise administrative effort and costs.

III Costs on landfill operators

58. Landfill site operators will be responsible for paying the Scottish Landfill Tax. However, operators pass the cost on to businesses and local councils on top of normal landfill gate fees. VAT is charged on the landfill fees and on UK Landfill Tax. In future it will be charged on the Scottish Landfill Tax.

59. It is the Scottish Government’s intention to retain many elements of the administration procedures of the current UK tax as the system is well understood and has high compliance rates. With SEPA operating the tax there will be opportunities for some of the administrative burden on landfill operators to be reduced as elements of the environmental reporting system and taxation system are harmonized (paragraphs 56-57 of the Policy Memorandum provide further information on this).

60. There may be a small additional administrative burden on landfill operators who run sites both in Scotland and the rest of the UK. The Scottish Government does not foresee any significant additional administration costs of submitting returns and data to two systems. Furthermore, the Scottish Government expects that any additional burdens will be largely offset by the introduction of an electronic reporting system in respect of the Scottish Landfill Tax. This will have advantages over the current paper based system including:

- Extended deadlines – as the information can be compiled centrally faster,
- Faster repayments and credits,
- Easier for operators to keep track of their Scottish Landfill Tax account,
- Instant online confirmation from Revenue Scotland,
- Personalised tax forms – reducing errors and confusion, for example removing irrelevant sections automatically.

61. Illegal dumping can produce a risk to human health, is bad for the environment and undercuts reputable organisations that uphold Duty of Care guidelines and abide by the Pollution Prevention and Control regulations. Taxing illegal disposals will act as a deterrent to such operations and drive material to legitimate businesses and reputable operators. By tackling the distorting effect of illegal operators in the waste and resources market, the long-term aim is to support continued investment by reputable companies to secure a sustainable network of facilities and infrastructure to provide alternatives to landfill and maximise the value of materials to Scotland’s economy.

IV COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

62. When businesses (non-household waste producers) dispose of their waste they are subject to UK Landfill Tax. These UK Landfill Tax costs are passed on to waste producers through the costs charged by companies (or local authorities) collecting and disposing of their waste.

63. In terms of waste producers, there are two main sectors: commercial and industrial, and construction and demolition. Using the same data outlined in paragraph 54, the Scottish Government estimates that these sectors represent around 12% (or £11.64m) (2010-11) of the total tax take in Scotland. Construction and demolition waste is by far the largest waste stream in Scotland by weight. However, this waste stream is typically charged at the lower landfill tax rate, and its total tax contribution is less than for the commercial and industrial sector.

64. As outlined earlier, the Scottish Landfill Tax system will be broadly similar to the UK Landfill Tax. Employing the same assumptions set out in Section A, the Scottish Government estimates that this Bill will cost waste producers in the region of £13m in 2015-16, dropping to around £5m in 2025. However, as the tax already exists, there will be no significant change in net tax costs for businesses (waste producers) from this Bill.

65. As outlined in paragraphs 55 and 60, the Scottish Government does not expect the Scottish Landfill Tax to create any significant additional administrative costs for landfill operators that would be passed on to waste producers.

66. Other factors that will affect the amount of tax paid include changes in costs and availability of recycling services available to business, improvement in action to reduce waste, including those supported by bodies like Resource Efficient Scotland. The costs of managing waste will also change as alternative outlets to landfill become more readily available across Scotland. Finally, wider changes in the composition of waste, including the composition of packaging will affect the costs of waste for businesses.

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14 Resource Efficient Scotland provides advice to businesses to help them save money by extracting maximum value from all the resources they consume- water, energy and materials.
67. In line with the principles of the tax, the revenue generated from dealing with the waste produced by businesses will instead support companies and industries that provide services to prevent waste, reuse products and materials, recycle materials back into the economy or recover energy from materials that can’t be recycled. The expectation is for the costs of these alternatives to landfill to diminish as the value of secondary materials increases, and as competition for these materials increases. For instance, the value of recycled plastic has increased from £107 (per tonne) in 2000 to £185 in 2011 and the value of recycled paper has increased from £32 (per tonne) in 2001 to £127 in 2011. Further information on trends in waste and resource management is provided in the Partial Business and Regulatory Impact Assessment.

**SUMMARY OF COSTS ARISING FROM THE BILL**

<table>
<thead>
<tr>
<th></th>
<th>Set-up costs £M</th>
<th>Annual running costs £M</th>
<th>Tax revenue 2015-16 £m**</th>
<th>Tax paid 2015-16 £m**</th>
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<td>Revenue Scotland *</td>
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<tr>
<td>SEPA</td>
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<td>0.3</td>
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<tr>
<td>Local authorities</td>
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<td></td>
</tr>
<tr>
<td>Other waste producers</td>
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<td></td>
<td>13</td>
<td></td>
</tr>
</tbody>
</table>

* Includes both devolved taxes: Land and Buildings Transaction Tax and Scottish Landfill Tax
** Predicted tax revenue based on the assumptions outlined in Section A on tax rates and trends in waste. The estimated costs on local authorities and other waste producers are comparable with the costs under the current UK landfill tax.
These documents relate to the Landfill Tax (Scotland) Bill (SP Bill 28) as introduced in the Scottish Parliament on 17 April 2013

SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE

On 17 April 2013, the Cabinet secretary for Finance, Employment and Sustainable Growth (John Swinney MSP) made the following statement:

“In my view, the provisions of the Landfill Tax (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

On 17 April 2013, the Presiding Officer (Rt Hon Tricia Marwick MSP) made the following statement:

“In my view, the provisions of the Landfill Tax (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
These documents relate to the Landfill Tax (Scotland) Bill (SP Bill 28) as introduced in the Scottish Parliament on 17 April 2013

LANDFILL TAX (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

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