Landfill Tax (Scotland) Bill

Bill Number: SP Bill 28
Introduced on: 17 April 2013
Introduced by: John Swinney (Government Bill)
Passed: 17 December 2013
Royal Assent: 21 January 2014

Passage of the Bill

The Landfill Tax (Scotland) Bill [SP Bill 28] was introduced in the Parliament on 17 April 2013. Stage 1 commenced on 24 April 2013, with the Finance Committee as the lead committee. The Stage 1 (general principles) debate took place on 29 October 2013 and the Bill was passed following the Stage 3 debate on 17 December 2013.

Purpose and objectives of the Bill

The purpose of the Bill is to set a framework for the collection of Landfill Tax in Scotland to replace the current UK Landfill Tax regime in April 2015.

Provisions of the Bill

The Landfill Tax (Scotland) Bill is the second of three related Bills that result from measures enacted in the Scotland Act 2012. This Bill, along with the Land and Buildings Transaction Tax Bill and the Revenue Scotland and Tax Powers Bill provides for the introduction of two new taxes and sets a framework for the collection of these taxes. The Landfill Tax (Scotland) Bill replaces the current UK Landfill Tax regime with a Scottish Landfill Tax in April 2015.

The UK Government introduced Landfill Tax in 1996 to ensure that landfill waste was properly priced and to discourage the disposal of waste to landfill. It has contributed to a reduction in waste sent to landfill of 59% between 2000 and 2010 and consultation responses received by the Scottish Government and Finance Committee generally considered it to have been effective.
The Bill draws on the approach of the existing UK Landfill Tax regime in terms of what constitutes a taxable disposal, and the Scottish Bill will start with an identical set of exemptions. The Scottish Government will, however, be able to add or remove exempted material through subordinate legislation. The Landfill tax rate will be set by subordinate legislation and the Scottish Government has indicated that it intends to initially set rates at a level no lower than the UK tax rate in 2015.

The Bill seeks to tackle the issue of unauthorised landfill sites by defining the person who is liable to pay the tax, and ensuring that Revenue Scotland and the Scottish Environment Protection Agency (SEPA) can identify a person or entity responsible for unauthorised or unregulated disposals.

The Bill also seeks to continue with the Landfill Communities Fund to provide funding for community or environmental projects.

Revenue Scotland will oversee the administration of both the Landfill Tax and the Land and Buildings Transaction Tax. The Scottish Government intends that SEPA will have operational responsibility for the collection of Scottish Landfill Tax.

Parliamentary consideration

Parliamentary consideration focused on

- Landfill tax rates, which were not specified on the face of the Bill so that changes to rates can be made in future without the need for primary legislation.
- Waste Tourism and issues around cross border movements of waste where there are different tax rates in different tax jurisdictions. The Bill team said that one of the main factors behind the policy of mirroring the UK rate was to “minimise cross-border movement of waste”. The Bill team said that the committee “would be surprised at how small the differential in tax rates would have to be for it to be cost effective to move waste” and that, “initially, we would want to mirror the UK structure and rates closely”.
- The Bill’s provision to impose both fines and taxes on unauthorised operators of landfill sites. The current UK Landfill tax regime does not provide HMRC with powers to collect tax from unauthorised operators and that court fines, which are usually smaller than the tax evaded can make unauthorised activity financial attractive. This tougher approach to evasion was generally welcomed, but there was a view expressed that SEPA might “require additional resources to identify and sanction illegal sites”.
- The Landfill Communities Fund (LCF) and its eligibility criteria. The Landfill Communities Fund (LCF) was established in 1996 to provide funding for community or environmental projects in the “vicinity of landfill sites”. There was general support for this fund and its continuation when Landfill tax is devolved. Most of the debate centred on the 10-mile eligibility radius. The guidance for the existing LCF
states that an environmental project should be no more than 10 miles from a Landfill site (whether active or not) in order to be eligible to receive funding. In stage 1 evidence, the Committee heard conflicting views on the 10-mile radius issue. Some, like SEPA, argued that there should not be a fixed area for LCF eligibility as people outwith a 10-mile radius can be affected. Others, like the Scottish Environmental Services Association (SESA) argued that extending the eligibility area criteria would mean that there was less funding available for people most directly impacted by landfill. The Bill team and Cabinet Secretary both stated that the 10-mile radius issue needed further consideration. The Committee concluded that it was “supportive of the principle that those communities most affected by landfill sites should be the ones to benefit most from the fund.”