



# Finance Act 2017

## 2017 CHAPTER 10

### PART 2

#### SOFT DRINKS INDUSTRY LEVY

##### *Exemption etc*

#### **37 Small producer exemption**

- (1) No charge to soft drinks industry levy arises—
  - (a) on a chargeable event within section 32 in relation to chargeable soft drinks produced by a person who is, on the relevant day, a qualifying small producer;
  - (b) on a chargeable event within section 33 in relation to chargeable soft drinks produced by a person who is, on the relevant day, a small producer.
- (2) Chargeable soft drinks are “produced” by a person if they are packaged (by or on behalf of the person) for marketing under—
  - (a) the person's name or business name, or
  - (b) another name which is used in accordance with a licence granted to the person.
- (3) For the purposes of this section and section 38, the “relevant day”, in relation to chargeable soft drinks, is the day on which the charge to soft drinks industry levy on the chargeable soft drinks would (apart from this section) arise.
- (4) “Small producer” has the meaning given by section 38.
- (5) A person is a “qualifying small producer” if the person is a small producer who is either—
  - (a) registered under section 45 (voluntary registration: small producers), or
  - (b) ineligible for registration under that section because the person does not meet the condition in section 45(2)(c) (voluntary registration eligibility conditions: packaging by a person other than the producer).

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2017, Cross Heading: Exemption etc. (See end of Document for details)*

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**Commencement Information**

**II** S. 37 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

**38 Meaning of “small producer”**

- (1) A person (“the producer”) who produces chargeable soft drinks is a “small producer” on the relevant day if Conditions A and B are met.
- (2) Condition A is met if the aggregate of—
  - (a) the amount of the producer's chargeable soft drinks within section 26(1)(a) in respect of which a relevant event has occurred during the relevant 12 month period, and
  - (b) the amount of prepared drink that would result from the producer's chargeable soft drinks within section 26(1)(b) in respect of which a relevant event has occurred during the relevant 12 month period,
 does not exceed the small producer threshold.
- (3) Condition B is met if there are reasonable grounds for believing that the aggregate of—
  - (a) the amount of the producer's chargeable soft drinks within section 26(1)(a) in respect of which a relevant event will occur during the relevant 30 day period, and
  - (b) the amount of prepared drink that would result from the producer's chargeable soft drinks within section 26(1)(b) in respect of which a relevant event will occur during the relevant 30 day period,
 will not exceed the small producer threshold.
- (4) A “relevant event” occurs in respect of chargeable soft drinks on the removal of the chargeable soft drinks from the premises on which they are packaged.
- (5) But—
  - (a) if, on removal from the premises on which the chargeable soft drinks are packaged, the secondary warehousing condition is met in relation to the soft drinks, a “relevant event” occurs in relation to those soft drinks at the time that the secondary warehousing condition ceases to be met in relation to them (and not at the time mentioned in subsection (4));
  - (b) if the chargeable soft drinks are made available for sale or free of charge before a relevant event in relation to the soft drinks occurs under subsection (4) or paragraph (a), a “relevant event” occurs at the time they are made available (and not at the time mentioned in subsection (4) or paragraph (a)).
- (6) For the purposes of subsections (2) and (3)—
  - (a) the “relevant 12 month period” is the period of 12 months ending with the end of the month that immediately precedes the month in which the relevant day falls, and
  - (b) the “relevant 30 day period” is the period of 30 days beginning with the relevant day.
- (7) The “small producer threshold” is 1 million litres.

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- (8) References in this section to “the producer's chargeable soft drinks” are references to chargeable soft drinks produced by the producer or a person connected with the producer.

**Commencement Information**

**I2** S. 38 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

### 39 Tax credits

- (1) The Commissioners may by regulations make provision in relation to cases where, after a charge to soft drinks industry levy has arisen in relation to chargeable soft drinks—
- (a) the soft drinks are exported from the United Kingdom;
  - (b) the soft drinks are lost or destroyed;
  - [<sup>F1</sup>(c) in the case of soft drinks within section 26(1)(c), the flavour concentrate—
    - (i) has not been combined with added sugar ingredients (but has been prepared in a specified manner), or
    - (ii) has been processed in a specified manner so as to result in a beverage that contains less than 5 grams of sugars per 100 millilitres of prepared drink.]
- (2) The provision that may be made is provision—
- (a) for the liable person to be entitled to a tax credit in respect of any soft drinks industry levy charged on the soft drinks that are [<sup>F2</sup>that fall within subsection (1)(a), (b) or (c) (as the case may be)];
  - (b) for the tax credit to be brought into account when the person is accounting for soft drinks industry levy due from the person for the prescribed accounting period or periods.
- (3) Regulations under this section may include provision—
- (a) for any entitlement to a tax credit to be conditional on the making of a claim by the liable person, and specifying the period within which and the manner in which a claim may be made;
  - (b) for any entitlement to bring a tax credit into account to be conditional on compliance with prescribed requirements;
  - (c) specifying circumstances in which, and criteria for determining the period for which, a liable person is not entitled to a tax credit;
  - (d) requiring a claim for a tax credit to be evidenced and quantified by reference to prescribed records and other documents;
  - (e) requiring a person claiming any entitlement to a tax credit to keep, for the prescribed period and in the prescribed form and manner, those records and documents and a record of prescribed information relating to the claim;
  - (f) for the withdrawal of a tax credit where any requirement of the regulations is not complied with;
  - (g) about adjustments of liability for soft drinks industry levy in connection with entitlement or withdrawal of entitlement to a tax credit in prescribed circumstances;

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- (h) about the treatment of a tax credit where the liable person ceases to carry on a business involving the package or sale of chargeable soft drinks.
- (4) Regulations under paragraph (a) of subsection (1) may include provision for the sale or provision of chargeable soft drinks on passenger transport operating between the United Kingdom and a place outside of the United Kingdom to be treated as “export from the United Kingdom” for the purposes of regulations under that paragraph.
- (5) Regulations under paragraph (b) of subsection (1) may include provision about the circumstances in which chargeable soft drinks are to be treated as lost or destroyed for the purposes of regulations under that paragraph.
- [<sup>F3</sup>(5A) This section is subject to section 58A (Isle of Man: import and export of chargeable soft drinks).]
- (6) In this section—
- “liable person” means the person who is liable under section 35 to pay the charge to soft drinks industry levy referred to in subsection (1);
- “prescribed” means specified in, or determined in accordance with, regulations under this section.

#### Textual Amendments

- F1** S. 39(1)(c) inserted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 21 paras. 7\(2\)](#), 8
- F2** Words in s. 39(2)(a) substituted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 21 paras. 7\(3\)](#), 8
- F3** S. 39(5A) inserted (1.4.2019) by [Finance Act 2019 \(c. 1\)](#), [s. 68\(5\)\(6\)](#)

#### Commencement Information

- I3** S. 39 in force at 13.1.2018 for specified purposes by [S.I. 2018/32](#), [reg. 2](#)
- I4** S. 39 in force at 6.4.2018 in so far as not already in force by [S.I. 2018/464](#), [art. 2\(e\)](#)

**Changes to legislation:**

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Exemption etc.