



Finance Act 2017

2017 CHAPTER 10

PART 2

SOFT DRINKS INDUSTRY LEVY

Offences

50 Fraudulent evasion

- (1) A person commits an offence if the person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion (by that person or any other person) of soft drinks industry levy.
- (2) The references in subsection (1) to the evasion of soft drinks industry levy include references to obtaining, in circumstances where there is no entitlement to it—
 - (a) a tax credit under regulations under section 39;
 - (b) a repayment of soft drinks industry levy under Schedule 8.
- (3) A person guilty of an offence under this section is liable—
 - (a) on summary conviction in England and Wales—
 - (i) to imprisonment for a term not exceeding [^{F1}the general limit in a magistrates' court], or
 - (ii) to a fine not exceeding £20,000 or (if greater) 3 times the total of the amounts of soft drinks industry levy that were, or were intended to be, evaded, or
 - (iii) to both;
 - (b) on summary conviction in Scotland—
 - (i) to imprisonment for a term not exceeding 12 months, or
 - (ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the total of the amounts of soft drinks industry levy that were, or were intended to be, evaded, or
 - (iii) to both;

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- (c) on summary conviction in Northern Ireland—
 - (i) to imprisonment for a term not exceeding 6 months, or
 - (ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the total of the amounts of soft drinks industry levy that were, or were intended to be, evaded, or
 - (iii) to both;
 - (d) on conviction on indictment—
 - (i) to imprisonment for a term not exceeding 7 years,
 - (ii) to a fine, or
 - (iii) to both.
- (4) For the purposes of subsection (3), the amounts of soft drinks industry levy that were, or were intended to be, evaded are to be taken as including—
- (a) the amount of any tax credit under regulations under section 39, and
 - (b) the amount of any repayment of soft drinks industry levy under Schedule 8, which was, or was intended to be, obtained in circumstances where there was no entitlement to it.
- (5) In determining for the purposes of subsection (3) the amounts of soft drinks industry levy that were, or were intended to be, evaded, no account is to be taken of the extent to which any liability to levy of a person would be, or would have been, reduced by the amount of any tax credit or repayment of soft drinks industry levy to which the person was, or would have been, entitled.
- (6) In relation to an offence committed before [^{F2} 2 May 2022] the reference in subsection (3)(a)(i) to [^{F3} the general limit in a magistrates' court] is to be read as a reference to 6 months.

Textual Amendments

- F1** Words in s. 50(3)(a)(i) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1**
- F2** Words in s. 50(6) substituted (28.4.2022) by [The Criminal Justice Act 2003 \(Commencement No. 33\) and Sentencing Act 2020 \(Commencement No. 2\) Regulations 2022 \(S.I. 2022/500\)](#), regs. 1(2), 5(1), **Sch. Pt. 1**
- F3** Words in s. 50(6) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1**

Commencement Information

- I1** S. 50 in force at 6.4.2018 by [S.I. 2018/464](#), art. 2(e)

51 Failure to notify registration liability

- (1) A person who fails to comply with section 44(1) (obligation to notify the Commissioners of liability to be registered) commits an offence.
- (2) In proceedings against a person (P) for an offence under subsection (1), it is a defence for P to prove that P had a reasonable excuse for the failure to comply.
- (3) For the purposes of subsection (2)—

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- (a) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure;
 - (b) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.
- (4) A person guilty of an offence under this section is liable—
- (a) on summary conviction in England and Wales—
 - (i) to imprisonment for a term not exceeding [^{F4}the general limit in a magistrates' court], or
 - (ii) to a fine not exceeding £20,000 or (if greater) 3 times the amount of the potential lost revenue, or
 - (iii) to both;
 - (b) on summary conviction in Scotland—
 - (i) to imprisonment for a term not exceeding 12 months, or
 - (ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the amount of the potential lost revenue, or
 - (iii) to both;
 - (c) on summary conviction in Northern Ireland—
 - (i) to imprisonment for a term not exceeding 6 months, or
 - (ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the amount of the potential lost revenue, or
 - (iii) to both;
 - (d) on conviction on indictment—
 - (i) to imprisonment for a term not exceeding 3 years,
 - (ii) to a fine, or
 - (iii) to both.
- (5) For the purposes of subsection (4), the “potential lost revenue” is the amount of soft drinks industry levy (if any) for which the person who committed the offence is liable for the period—
- (a) beginning with the date with effect from which the person is liable to be registered under this Part, and
 - (b) ending with the date on which the Commissioners received notification of, or otherwise were satisfied as to, the person's liability to be registered under this Part.
- (6) In calculating potential lost revenue for the purposes of subsection (4), no account is to be taken of the fact that a potential loss of revenue from the person is or may be balanced by a potential over-payment by another person.
- (7) In relation to an offence committed before [^{F5}2 May 2022] the reference in subsection (4)(a)(i) to [^{F6}the general limit in a magistrates' court] is to be read as a reference to 6 months.

Textual Amendments

F4 Words in s. 51(4)(a)(i) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), [Sch. Pt. 1](#)

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- F5** Words in s. 51(7) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), 5(1), **Sch. Pt. 1**
- F6** Words in s. 51(7) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1**

Commencement Information

- I2** S. 51 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Changes to legislation:

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