
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2017, SCHEDULE 8. (See end of Document for details)

SCHEDULES

SCHEDULE 8

Section 52

SOFT DRINKS INDUSTRY LEVY: RECOVERY AND OVERPAYMENTS

PART 1

RECOVERY

Recovery as debt due

- 1 Soft drinks industry levy is recoverable as a debt due to the Crown.

Annotations:

Commencement Information

- II** [Sch. 8 para. 1](#) in force at 6.4.2018 by [S.I. 2018/464](#), [art. 2\(e\)](#)

Assessments

- 2 (1) Sub-paragraph (2) applies where it appears to the Commissioners—
- (a) that any period is an accounting period by reference to which a person is liable to account for soft drinks industry levy,
 - (b) that an amount of soft drinks industry levy for which that person is liable to account by reference to that period has become due (but the amount due cannot be ascertained), and
 - (c) that there has been a relevant default by the person (see sub-paragraph (3)).
- (2) The Commissioners may—
- (a) assess the amount of soft drinks industry levy due from the person to the best of their judgment, and
 - (b) notify the amount to the person.
- (3) The following are “relevant defaults”—
- (a) a failure to comply with a requirement of section 44 (notification of liability to register) or of regulations under section 48 (correction of the register);
 - (b) a failure to make a return required by regulations under section 52;
 - (c) a failure to keep documents, or provide facilities, necessary to verify returns required by those regulations;
 - (d) the making, in purported compliance with a requirement of the regulations, of an incomplete or incorrect return;
 - (e) a failure to comply with a requirement of regulations under section 53(1) (keeping and preserving records);

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- (f) an unreasonable delay in complying with a requirement, where the failure to comply would be a default within any of paragraphs (a) to (e).

Annotations:

Commencement Information

I2 Sch. 8 para. 2 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

- 3 (1) Sub-paragraph (2) applies where—
- (a) the Commissioners have made an assessment for an accounting period as a result of a person's failure to make a return for that period,
 - (b) the levy assessed has been paid but no proper return has been made for that period, and
 - (c) as a result of a failure to make a return for a later accounting period, the Commissioners make another assessment (the “later assessment”) under paragraph 2 in relation to the later period.
- (2) The Commissioners may, if they consider it appropriate in the light of the absence of a return for the earlier period, specify in the later assessment an amount of soft drinks industry levy due that is greater than the amount that they would have considered to be appropriate had they had regard only to the later period.

Annotations:

Commencement Information

I3 Sch. 8 para. 3 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

- 4 (1) Sub-paragraph (2) applies where it appears to the Commissioners that—
- (a) any period is an accounting period by reference to which a person is liable to account for soft drinks industry levy,
 - (b) an amount of soft drinks industry levy for which that person is liable to account by reference to that period has become due, and
 - (c) the amount due can be ascertained by the Commissioners.
- (2) The Commissioners may—
- (a) assess the amount of soft drinks industry levy due from the person, and
 - (b) notify the amount to the person.

Annotations:

Commencement Information

I4 Sch. 8 para. 4 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

Supplementary assessments

- 5 (1) Sub-paragraph (2) applies where—
- (a) an assessment has been notified to a person under paragraph 2(2) or 4(2), and
 - (b) it appears to the Commissioners that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.

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- (2) The Commissioners may—
- (a) make a supplementary assessment of the amount of soft drinks industry levy due from the person to the best of their judgment, and
 - (b) notify the amount to that person.

Annotations:

Commencement Information

I5 Sch. 8 para. 5 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

Further provision about assessments under paragraphs 2, 4 and 5

- 6 (1) Where an amount has been assessed and notified to a person under paragraph 2, 4 or 5, it is recoverable on the basis that it is an amount of soft drinks industry levy due from that person.
- (2) But sub-paragraph (1) does not have effect if, or to the extent that, the assessment has been withdrawn or reduced.

Annotations:

Commencement Information

I6 Sch. 8 para. 6 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

Time limits for assessments

- 7 (1) An assessment under paragraph 2, 4 or 5 may not be made after the end of the relevant period.
- (2) Except in a case within sub-paragraph (3), the relevant period is the period of 4 years from the end of the accounting period to which the assessment relates.
- (3) Where an assessment of an amount due from a person is made in a case involving loss of soft drinks industry levy—
- (a) brought about deliberately by the person, or
 - (b) attributable to a failure by the person to comply with a requirement of section 44 (notification of liability to be registered) or a requirement of regulations under section 48 (correction of the register),
- the relevant period is the period of 20 years from the end of the accounting period to which the assessment relates.
- (4) In sub-paragraph (3)(a) the reference to loss brought about deliberately by a person includes a reference to a loss brought about as a result of the deliberate inaccuracy in a document given to HMRC by the person.
- (5) In sub-paragraphs (3) and (4) references to a loss brought about by a person include references to a loss brought about by another person acting on behalf of that person.

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Annotations:

Commencement Information

I7 Sch. 8 para. 7 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

PART 2

OVERPAYMENTS

Repayments of overpaid levy

- 8 (1) This paragraph applies where a person (P) has paid an amount to the Commissioners by way of soft drinks industry levy which was not levy due.
- (2) The Commissioners are liable, on the making of a claim by P, to repay the amount.
- (3) The Commissioners may by regulations make provision about—
- (a) the form and manner of a claim;
 - (b) the information required in support of a claim.
- (4) Except as provided by this paragraph, the Commissioners are not liable to repay any amount paid by way of soft drinks industry levy by reason of the fact that it was not levy due.
- (5) This paragraph is subject to paragraph 9.

Annotations:

Commencement Information

I8 Sch. 8 para. 8 in force at 13.1.2018 for specified purposes by S.I. 2018/32, reg. 2

I9 Sch. 8 para. 8 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, art. 2(e)

Supplementary provisions about repayment etc.

- 9 (1) The Commissioners are not liable, on a claim for a repayment of soft drinks industry levy, to repay any amount paid more than 4 years before the making of the claim.
- (2) It is a defence to any claim for repayment of an amount of soft drinks industry levy that the repayment of that amount would unjustly enrich the claimant.

Annotations:

Commencement Information

I10 Sch. 8 para. 9 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

- 10 (1) This paragraph applies where—
- (a) an amount has been paid by way of soft drinks industry levy which (apart from paragraph 9(2)) would fall to be repaid to a person (P), and

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- (b) the whole or a part of the cost of the payment of that amount to the Commissioners has, for practical purposes, been borne by a person other than P.
- (2) Where loss or damage has been, or may be, incurred by P as a result of mistaken assumptions made in P's case about the operation of any provision relating to soft drinks industry levy, that loss or damage is to be disregarded, except to the extent of the quantified amount, in the making of a relevant determination.
- (3) In sub-paragraph (2) “the quantified amount” means the amount (if any) which is shown by P to constitute the amount that would appropriately compensate P for loss or damage shown by P to have resulted from the making of the mistaken assumptions.
- (4) A “relevant determination” means a determination for the purposes of paragraph 9(2) as to—
 - (a) whether or to what extent the repayment of an amount would enrich P, or
 - (b) whether or to what extent an enrichment of P would be unjust.
- (5) The reference in sub-paragraph (2) to provision relating to soft drinks industry levy is a reference to any provision made by or under any enactment which relates to the levy or to any matter connected with it.

Annotations:

Commencement Information

III Sch. 8 para. 10 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

Reimbursement arrangements

- 11 (1) The Commissioners may by regulations make provision for reimbursement arrangements to be disregarded for the purposes of paragraph 9(2) except where the arrangements—
- (a) contain such provision as may be required by the regulations, and
 - (b) are supported by such undertakings to comply with the arrangements as may be required by the regulations to be given to the Commissioners.
- (2) In this paragraph “reimbursement arrangements” means arrangements for the purposes of a claim to a repayment of soft drinks industry levy which—
- (a) are made by a person for the purpose of securing that the person is not unjustly enriched by the repayment of any amount in pursuance of the claim, and
 - (b) provide for the reimbursement of a person who has for practical purposes borne the whole or any part of the cost of the original payment of that amount to the Commissioners.
- (3) Regulations under this paragraph may include provision requiring reimbursement arrangements to contain provision—
- (a) requiring a reimbursement for which the arrangements provide to be made within a specified period after the repayment to which it relates;
 - (b) for the repayment of amounts to the Commissioners where those amounts are not reimbursed in accordance with the arrangements;

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- (c) requiring interest paid by the Commissioners on any amount repaid by them to be treated in the same way as that amount for the purposes of any requirement under the arrangements to reimburse or repay the Commissioners;
 - (d) requiring records of a specified description relating to the arrangements to be kept and produced to the Commissioners, or to an officer of Revenue and Customs;
 - (e) imposing obligations on specified persons for the purposes of provision made under paragraphs (a) to (d).
- (4) Regulations under this paragraph may—
- (a) make provision about the form, manner and timing of undertakings given to the Commissioners in accordance with the regulations, and
 - (b) provide for those matters to be determined by the Commissioners in accordance with the regulations.

Annotations:

Commencement Information

I12 Sch. 8 para. 11 in force at 13.1.2018 for specified purposes by S.I. 2018/32, reg. 2

I13 Sch. 8 para. 11 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, art. 2(e)

Assessment for excessive repayment

- 12 (1) Sub-paragraph (3) applies where—
- (a) an amount has been paid at any time to a person by way of a repayment of soft drinks industry levy, and
 - (b) the amount paid exceeded the amount which the Commissioners were liable at that time to repay to that person.
- (2) Sub-paragraph (3) also applies where a person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by regulations under paragraph 11(3)(b), (c) or (e).
- (3) The Commissioners may—
- (a) to the best of their judgment, assess the amount of the excess (in a case within sub-paragraph (1)) or the amount due (in a case within sub-paragraph (2)), and
 - (b) notify the amount to the person.
- (4) Subject to sub-paragraph (5), where—
- (a) an assessment is made on any person under this paragraph in respect of a repayment of soft drinks industry levy, and
 - (b) the Commissioners have power under Part 1 of this Schedule to make an assessment on that person as to an amount of the levy due from that person,
- the assessments may be combined and notified to the person as one assessment.
- (5) A notice of a combined assessment under sub-paragraph (4) must separately identify the amount being assessed in respect of repayments of soft drinks industry levy.

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Annotations:

Commencement Information

I14 Sch. 8 para. 12 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

Supplementary assessments

- 13 (1) Sub-paragraph (2) applies where—
- (a) an assessment has been notified to a person under paragraph 12, and
 - (b) it appears to the Commissioners that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.
- (2) The Commissioners may—
- (a) on or before the last day on which the assessment under paragraph 12 could have been made, make a supplementary assessment of the amount of soft drinks industry levy due from the person, and
 - (b) notify the amount to that person.

Annotations:

Commencement Information

I15 Sch. 8 para. 13 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

Further provision about assessments under paragraphs 12 and 13

- 14 (1) Where an amount has been assessed and notified to a person under paragraph 12 or 13, it is recoverable on the basis that it is an amount of soft drinks industry levy due from that person.
- (2) But sub-paragraph (1) does not have effect if, or to the extent that, the assessment has been withdrawn or reduced.

Annotations:

Commencement Information

I16 Sch. 8 para. 14 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

Time limits for assessments

- 15 An assessment under paragraph 12 or 13 may not be made more than 2 years after evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.

Annotations:

Commencement Information

I17 Sch. 8 para. 15 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

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PART 3

FURTHER PROVISION ABOUT NOTICES ETC.

Notifications to a person's representative

- 16 (1) A notice of an assessment under paragraph 2, 5, 12 or 13 given to a person's representative is to be treated for the purposes of this Schedule as a notice given to the person in relation to whom the representative acts.
- (2) In sub-paragraph (1), “representative”, in relation to a person, means—
- (a) any of that person's personal representatives;
 - (b) that person's trustee in bankruptcy, interim or permanent trustee or liquidator;
 - (c) any person holding office as receiver in relation to that person or any of that person's property;
 - (d) any other person acting in a representative capacity in relation to that person.

Annotations:

Commencement Information

I18 Sch. 8 para. 16 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

Service of notices

- 17 A notice under this Schedule may be given to a person by sending it to that person by post, addressed to the person's last known address.

Annotations:

Commencement Information

I19 Sch. 8 para. 17 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

Changes to legislation:

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