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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2017, Part 3. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 10

#### SOFT DRINKS INDUSTRY LEVY: APPEALS AND REVIEWS

#### PART 3

#### APPEALS

##### *“Appeal tribunal”*

- 9 In this Schedule “appeal tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

##### **Commencement Information**

- II** Sch. 10 para. 9 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

##### *Bringing of appeals*

- 10 (1) An appeal under paragraph 1 is to be made to the appeal tribunal before—
- (a) the end of the period of 30 days beginning with—
    - (i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or
    - (ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or
  - (b) if later, the end of the relevant period (within the meaning of paragraph 5).
- (2) But that is subject to sub-paragraphs (3) to (5).
- (3) In a case where HMRC are required to undertake a review under paragraph 4—
- (a) an appeal may not be made until the conclusion date, and
  - (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.
- (4) In a case where HMRC are requested to undertake a review by virtue of paragraph 6—
- (a) an appeal may not be made to the appeal tribunal—
    - (i) unless HMRC have notified P, or the other person, as to whether or not a review will be undertaken, and
    - (ii) if HMRC have notified P, or the other person, that a review will be undertaken, until the conclusion date;
  - (b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;

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- (c) if HMRC have notified P, or the other person, that a review will not be undertaken, an appeal may be made only if the appeal tribunal gives permission to do so.
- (5) In a case where paragraph 7(8) applies, an appeal may be made at any time from the end of the period specified in paragraph 7(6) to the date 30 days after the conclusion date.
- (6) An appeal may be made after the end of the period specified in sub-paragraph (1), (3)(b), (4)(b) or (5) if the appeal tribunal gives permission to do so.
- (7) In this paragraph “conclusion date” means the date of the document notifying the conclusions of the review.

#### Commencement Information

**I2** Sch. 10 para. 10 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

#### *Appeals: further provision*

- 11
- (1) An appeal relating to a decision that an amount of soft drinks industry levy is due from a person may not be considered by the appeal tribunal unless the amount which HMRC have determined to be due has been paid or deposited with them.
  - (2) In a case where the amount determined to be payable as soft drinks industry levy has not been paid or deposited an appeal may be considered—
    - (a) if HMRC are satisfied (on the application of the appellant), or
    - (b) if HMRC are not satisfied, the appeal tribunal decides,
 that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.
  - (3) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007 (rights of appeal) the decision of the appeal tribunal as to the issue of hardship is final.

#### Commencement Information

**I3** Sch. 10 para. 11 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

#### *Determinations on appeal*

- 12
- On an appeal against a decision mentioned in paragraph 1(a) or (c) to (e), the appeal tribunal may affirm or cancel the decision.

#### Commencement Information

**I4** Sch. 10 para. 12 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

- 13
- On an appeal against a decision mentioned in paragraph 1(f) to (j), the appeal tribunal may—
    - (a) affirm the decision, or

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- (b) substitute for that decision another decision that the Commissioners had power to make.

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**Commencement Information**

**I5** Sch. 10 para. 13 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

- 14 Subject to paragraph 15, on an appeal against a decision mentioned in paragraph 1(b) or (k) to (o), the appeal tribunal may—
- (a) affirm or cancel the decision;
  - (b) substitute for that decision another decision that the Commissioners, or (as the case may be) an officer of Revenue and Customs had power to make;
  - (c) vary the decision;
  - (d) direct that the decision, so far as it remains in force, is to cease to have effect from such time as the tribunal may direct;
  - (e) require HMRC to conduct a review, or a further review, of the decision.

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**Commencement Information**

**I6** Sch. 10 para. 14 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

- 15 (1) On an appeal against a decision mentioned in paragraph 1(k), (n) or (o), the appeal tribunal may allow the appeal only if it considers that—
- (a) the Commissioners could not reasonably have been satisfied that there were grounds for the decision, or
  - (b) if information brought to the attention of the appeal tribunal had been available to the Commissioners at the time the decision was made, the Commissioners could not reasonably have been satisfied that there were grounds for the decision.
- (2) Where sub-paragraph (1) applies in relation to a decision mentioned in paragraph 1(o) (giving of a direction), the direction has effect pending the determination of the appeal.

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**Commencement Information**

**I7** Sch. 10 para. 15 in force at 6.4.2018 by S.I. 2018/464, art. 2(e)

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