
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 9. (See end of Document for details)

SCHEDULES

SCHEDULE 9

Section 59

PLASTIC PACKAGING TAX: SECONDARY LIABILITY AND ASSESSMENT NOTICES AND JOINT AND SEVERAL LIABILITY NOTICES

PART 1

SECONDARY LIABILITY AND ASSESSMENT NOTICES

Effect of secondary liability and assessment notice

- 1 A secondary liability and assessment notice given to a person (“R”) makes that person liable to pay an amount which is equal to or less than an amount of plastic packaging tax which another person (“P”) is liable to pay in relation to an accounting period of P (the “relevant time”) but which P has failed to pay on or before the date on which the amount became due and payable.

Commencement Information

- I1** Sch. 9 para. 1 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I2 Sch. 9 para. 1 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

Test for giving a secondary liability and assessment notice

- 2 (1) The Commissioners may give a secondary liability and assessment notice to R if they consider that—
- (a) R is acting in the course of a related business, and
 - (b) sub-paragraph (2) or (3) applies to R.
- (2) This sub-paragraph applies to R if—
- (a) R is or has been concerned in, or in the taking of steps with a view to, P failing to pay plastic packaging tax, and
 - (b) R knows or ought to know that R is or was so concerned.
- (3) This sub-paragraph applies to R if—
- (a) R is or has been involved in transporting, storing or otherwise dealing with a chargeable plastic packaging component, and
 - (b) R knows or ought to know that P has failed to pay plastic packaging tax which P is liable to pay in respect of the component.
- (4) The Commissioners may—
- (a) by regulations make provision about the factors which they may take into account in considering whether they may give a secondary liability and assessment notice to R;

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- (b) issue directions about those factors.
- (5) The Commissioners may—
- (a) give R more than one secondary liability and assessment notice in relation to the same relevant time;
 - (b) give R a secondary liability and assessment notice whether or not P has asked HMRC to review, or has appealed against, a decision that P is liable to pay some or all of the amount of plastic packaging tax which P has failed to pay as mentioned in paragraph 1.

Commencement Information

- I3** Sch. 9 para. 2 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I4 Sch. 9 para. 2 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

Content of secondary liability and assessment notice

- 3 (1) A secondary liability and assessment notice must—
- (a) set out why the Commissioners consider that it is appropriate to give a secondary liability and assessment notice to R under paragraph 2(1);
 - (b) specify the amount which the Commissioners have assessed that P has failed to pay as mentioned in paragraph 1;
 - (c) specify the amount which the Commissioners have assessed that R is liable to pay;
 - (d) specify how and when R must pay;
 - (e) specify how late payment interest will accrue if R does not make the payment by the date on which it is due and payable;
 - (f) set out how the Commissioners assessed the amount which R is required to pay.
- (2) The amount must be an amount which the Commissioners consider just and reasonable, having regard in particular to their reasons for considering that paragraph 2(2) or (3) applies to R.
- (3) The Commissioners must publish guidance on the matters which they will take into account when determining whether an amount is just and reasonable.
- (4) A secondary liability and assessment notice may not require R to pay an amount before the end of the period of 30 days beginning with the day on which the notice is given to R.
- (5) An amount assessed and notified to R in a secondary liability and assessment notice is recoverable on the basis that it is an amount of plastic packaging tax due from R.
- (6) But sub-paragraph (5) does not apply if, or to the extent that, the assessment has been withdrawn or reduced.

Commencement Information

- I5** Sch. 9 para. 3 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I6 Sch. 9 para. 3 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

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Copy of notice to be given to P

- 4 When the Commissioners give a secondary liability and assessment notice to R, they must, as soon as practicable, give a copy of that notice to P.

Commencement Information

- I7** Sch. 9 para. 4 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I8 Sch. 9 para. 4 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

Application to revoke or reduce amount

- 5 (1) R may apply to the Commissioners to—
- (a) revoke a secondary liability and assessment notice, on the grounds that R took all reasonable steps to establish that P had paid or intended to pay all the plastic packaging tax which P was liable to pay in relation to the relevant time, or
 - (b) reduce the amount which R is required to pay by a secondary liability and assessment notice, on the grounds that the amount is not just and reasonable.
- (2) The Commissioners may by regulations make provision about—
- (a) the steps which are to be regarded as reasonable for the purposes of sub-paragraph (1)(a);
 - (b) applications for the purposes of sub-paragraph (1).
- (3) The regulations may (among other things) make provision about information that must be supplied as part of an application.
- (4) The Commissioners must notify R of their decision in response to an application under sub-paragraph (1) within the period of 30 days beginning with the day on which they receive the application.
- (5) If the Commissioners decide to reduce the amount which R is required to pay, the notification of their decision must specify—
- (a) the new amount which R is liable to pay, and
 - (b) how and when R must pay.
- (6) R may not be required to pay the new amount before the end of the period of 30 days beginning with the day on which the notification is given to R.
- (7) The Commissioners must repay any amount which R has paid in excess of the new amount.

Commencement Information

- I9** Sch. 9 para. 5 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I10 Sch. 9 para. 5 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

Limitation on secondary liability

- 6 (1) The Commissioners may not give a secondary liability and assessment notice to R in respect of an amount of plastic packaging tax after the end of the period of 2 years beginning with—

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- (a) the day after the last day of the accounting period by reference to which P was liable to pay the amount, or, if later,
 - (b) the day on which a court or tribunal finally determines that P is liable to pay the amount.
- (2) But in a case involving a loss of tax brought about deliberately by R or P (whether acting alone or with another person) sub-paragraph (1) has effect as if the reference to 2 years were to 20 years.

Commencement Information

- I11** Sch. 9 para. 6 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I12 Sch. 9 para. 6 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

Reduction of amount where P's liability is reduced

- 7 (1) Where the amount which P is liable to pay in relation to the relevant time is reduced for any reason the Commissioners must consider whether to reduce the amount which R is liable to pay.
- (2) If the Commissioners decide to reduce or cancel the amount which R is liable to pay, they must, within the period of 30 days beginning with the day on which they make their decision—
- (a) inform R of the new amount which R is liable to pay (if any), and
 - (b) repay any amount which R has paid in excess of the new amount.
- (3) The new amount must be such amount as the Commissioners consider just and reasonable, having regard in particular to their reasons for considering that paragraph 2(2) or (3) applies to R.
- (4) Where P's liability to pay in relation to the relevant time is cancelled, the Commissioners must, within the period of 30 days beginning with the day on which that happens—
- (a) notify R that the secondary liability and assessment notice is revoked, and
 - (b) repay any amount which R has paid.

Commencement Information

- I13** Sch. 9 para. 7 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I14 Sch. 9 para. 7 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

No double payment

- 8 (1) R may not be required to pay any amount by a secondary liability and assessment notice if or to the extent that P has paid the amount mentioned in paragraph 1.
- (2) P may not be required to pay the amount mentioned in paragraph 1 if or to the extent that R has paid an amount referable to that amount.

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Commencement Information

- I15** Sch. 9 para. 8 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I16 Sch. 9 para. 8 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

PART 2

JOINT AND SEVERAL LIABILITY NOTICES

Effect of joint and several liability notice

- 9 A joint and several liability notice given to a person (“R”) makes that person jointly and severally liable to pay plastic packaging tax that another person (“P”) will be liable to pay in respect of so much of any accounting period of P as falls within the period of two years beginning with—
- (a) the day on which the notice is given to R, or
 - (b) if a joint and several liability notice is given to R at a time when another joint and several liability notice already has effect in relation to R, the day after the day on which the previous notice ceases to have effect.

Commencement Information

- I17** Sch. 9 para. 9 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I18 Sch. 9 para. 9 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

Test for giving joint and several liability notice

- 10 (1) The Commissioners may give a joint and several liability notice to R if the Commissioners consider that—
- (a) R is acting in the course of a related business, and
 - (b) sub-paragraph (2) or (3) applies to R.
- (2) This sub-paragraph applies to R if—
- (a) R is concerned in, or in the taking of steps with a view to, P not paying plastic packaging tax, and
 - (b) R knows or ought to know that R is so concerned.
- (3) This sub-paragraph applies to R if—
- (a) R is involved in transporting, storing or otherwise dealing with a chargeable plastic packaging component in respect of which P is or will be liable to pay plastic packaging tax,
 - (b) P has not paid that tax in respect of that component, and
 - (c) P intends not to pay that tax in respect of that component.
- (4) The Commissioners may—
- (a) by regulations make provision about the factors which they may take into account in considering whether they may give a joint and several liability notice to R;
 - (b) issue directions about those factors.

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Commencement Information

- I19** Sch. 9 para. 10 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I20 Sch. 9 para. 10 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

Content of joint and several liability notice

- 11 A joint and several liability notice must—
- (a) state that R is jointly and severally liable with P to pay any plastic packaging tax that P is liable to pay in respect of so much of any accounting period of P as falls within the period of two years determined in accordance with paragraph 9, and
 - (b) set out why the Commissioners consider that it is appropriate to give a joint and several liability notice to R under paragraph 10(1), including whether the Commissioners consider that paragraph 10(2) or (3) (or both) applies to R.

Commencement Information

- I21** Sch. 9 para. 11 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I22 Sch. 9 para. 11 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

Copy of notice to be given to P

- 12 When the Commissioners give a joint and several liability notice to R, they must, as soon as practicable, give a copy of that notice to P.

Commencement Information

- I23** Sch. 9 para. 12 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I24 Sch. 9 para. 12 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

Revocation

- 13 (1) After being given a joint and several liability notice R must notify the Commissioners if paragraph 10(2)(a) or, as the case may be, (3)(a) (or both), does not apply or ceases to apply to R, including as a result of R ceasing to have dealings with P, at any time within the period of two years mentioned in paragraph 9.
- (2) If—
- (a) R notifies the Commissioners under sub-paragraph (1) within the period of 30 days beginning with the day on which R is given the joint and several liability notice (the “cancellation period”), and
 - (b) as a result of the notification the Commissioners consider that paragraph 10(2)(a) or, as the case may be, (3)(a), does not apply to R, including as a result of R ceasing to have dealings with P during the cancellation period,
- the Commissioners must notify R that the joint and several liability notice is revoked with the result that R is not liable to pay any plastic packaging tax as mentioned in paragraph 9.

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- (3) If R does not notify the Commissioners under sub-paragraph (1), or notifies them only after the end of the cancellation period, R must be treated in relation to the period of liability as—
- (a) knowing that R is concerned in, or in the taking of steps with a view to, P not paying plastic packaging tax as mentioned in paragraph 10(2), or
 - (b) knowing that P has not paid and intends not to pay tax as mentioned in paragraph 10(3).
- (4) The period of liability is—
- (a) if R does not notify the Commissioners under sub-paragraph (1) within the period of two years mentioned in paragraph 9, that period of two years, or
 - (b) if R does notify the Commissioners under sub-paragraph (1) within that period of two years but after the cancellation period, and as a result of the notification the Commissioners accept that paragraph 10(2)(a) or, as the case may be, (3)(a), does not apply to R—
 - (i) the cancellation period, or,
 - (ii) if the Commissioners consider that paragraph 10(2)(a) or, as the case may be, (3)(a), applied to R after the cancellation period, the period beginning with the day on which the joint and several liability notice was given to R and ending with the day on which the Commissioners consider that paragraph 10(2)(a) or, as the case may be, (3)(a), ceased to apply to R.
- (5) The Commissioners must inform R and P of the result of a notification under sub-paragraph (1) within the period of 30 days beginning with the day on which they are given the notification.

Commencement Information

I25 Sch. 9 para. 13 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)

I26 Sch. 9 para. 13 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

- 14 (1) P may apply to the Commissioners to revoke a joint and several liability notice given to R, on the ground that the Commissioners were wrong to consider that paragraph 10(2) or (3) applies to R so far as relating to anything done or not done by, or any intention of, P.
- (2) An application under sub-paragraph (1) must be made within the period of 30 days beginning with the day on which the Commissioners give a copy of the notice to P.
- (3) The Commissioners must notify R and P of their decision in response to an application under sub-paragraph (1) within the period of 30 days beginning with the day on which they receive the application.

Commencement Information

I27 Sch. 9 para. 14 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)

I28 Sch. 9 para. 14 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

- 15 (1) The Commissioners may by regulations make further provision about—
- (a) notifications for the purposes of paragraph 13(1);

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- (b) applications for the purposes of paragraph 14(1).
- (2) The regulations may (among other things) make provision about information that must be supplied as part of the notification or application.

Commencement Information

- I29** Sch. 9 para. 15 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I30 Sch. 9 para. 15 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

Assessments of liability

- 16 (1) Where P is liable to pay an amount of plastic packaging tax, the Commissioners may assess that R is liable to pay an amount equal to or less than the amount due from P.
- (2) Where such an assessment is made, the Commissioners must notify R of—
- (a) the amount due from P;
 - (b) the amount assessed as due from R;
 - (c) how the Commissioners assessed the amount due from R;
 - (d) the date by which payment must be made;
 - (e) how payment must be made;
 - (f) how late payment interest will accrue if R does not make the payment by the date on which it is due and payable.
- (3) The amount assessed as due from R must be an amount which the Commissioners consider just and reasonable, having regard in particular to—
- (a) their reasons for considering that paragraph 10(2) or (3) applies to R, and
 - (b) the requirement mentioned in paragraph 13(3) (requirement to treat R as knowingly involved in P's failure to pay tax).
- (4) The Commissioners must publish guidance on the matters which they will take into account when determining whether an amount is just and reasonable.
- (5) The date by which payment must be made may not be before the end of the period of 30 days beginning with the day on which R is notified in accordance with subparagraph (2).
- (6) An amount may be assessed and notified to R even if R has made a notification under paragraph 13(1) (and the Commissioners must repay any amount that is subsequently found to have been overpaid).

Commencement Information

- I31** Sch. 9 para. 16 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I32 Sch. 9 para. 16 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

Adjustments

- 17 (1) Where an assessment to P is withdrawn or reduced, or P's liability in respect of plastic packaging tax is otherwise adjusted, the Commissioners may determine that R's liability is to be cancelled or reduced, or otherwise adjusted, in whatever way

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they consider just and reasonable, having regard in particular to their reasons for considering that paragraph 10(2) or (3) applies to R.

- (2) If the Commissioners decide to reduce or cancel the amount which R is liable to pay, or make any other adjustment to the assessment to R, they must, within the period of 30 days beginning with the day on which they make their decision—
- (a) inform R of the new amount which R is liable to pay (if any), and
 - (b) repay any amount which R has paid in excess of the new amount.

Commencement Information

I33 Sch. 9 para. 17 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)

I34 Sch. 9 para. 17 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

Limitation on assessments

- 18 R may not be notified of any assessment under paragraph 16(2) or of any increase in an assessment under paragraph 4(2) of Schedule 10 in respect of an amount after the end of the period of 2 years beginning with—
- (a) the day after the last day of the accounting period by reference to which P was liable to pay the amount, or, if later,
 - (b) the day on which a court or tribunal finally determines that P is liable to pay the amount.

Commencement Information

I35 Sch. 9 para. 18 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)

I36 Sch. 9 para. 18 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

No double payment

- 19 R may not be required to pay plastic packaging tax if or to the extent that P has paid it (and vice versa).

Commencement Information

I37 Sch. 9 para. 19 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)

I38 Sch. 9 para. 19 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

PART 3

APPLICATION OF SCHEDULE 10

- 20 (1) Schedule 10 applies with any necessary modifications, and subject as follows, in relation to any amount which R is liable to pay as a result of a secondary liability and assessment notice or a joint and several liability notice.
- (2) Paragraphs 4 to 6 of that Schedule apply in relation to an assessment under paragraph 16(1) of this Schedule as they apply to an assessment under paragraph 2(2) of that Schedule, except that paragraph 6 applies as if, in sub-paragraph (2), “4” were “2”.

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Commencement Information

- I39** Sch. 9 para. 20 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I40 Sch. 9 para. 20 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

PART 4

INTERPRETATION

Interpretation: related businesses

- 21 In this Schedule—
- (a) “related business” means a business that is—
- (i) involved in the production or importation of chargeable plastic packaging components by P, including in the transportation or storage of the components, or in the manufacture or supply of raw or processed materials used in, or in the production of, the components,
 - (ii) supplied, whether directly or indirectly, with chargeable plastic packaging components produced or imported by P, or
 - (iii) involved in the marketing or sale of chargeable plastic packaging components by P as an operator of an online marketplace or fulfilment business, and
- (b) references to acting in the course of a related business include—
- (i) in relation to a business that is carried on by a body corporate, being a director, manager, secretary, chief executive or member of the committee of management, or a person purporting to act in such a capacity, and
 - (ii) in relation to a business that is carried on by an [^{F1}unincorporated body (other than a partnership)], being an officer of the [^{F2}the body] or a member of its governing body, or a person purporting to act in such a capacity.

Textual Amendments

- F1** Words in [Sch. 9 para. 21\(b\)\(ii\)](#) substituted (24.2.2022) by [Finance Act 2022 \(c. 3\), Sch. 12 para. 7\(a\)](#)
F2 Words in [Sch. 9 para. 21\(b\)\(ii\)](#) substituted (24.2.2022) by [Finance Act 2022 \(c. 3\), Sch. 12 para. 7\(b\)](#)

Commencement Information

- I41** Sch. 9 para. 21 in force at 10.12.2021 for specified purposes by [S.I. 2021/1409, reg. 3](#)
I42 Sch. 9 para. 21 in force at 1.4.2022 in so far as not already in force by [S.I. 2021/1409, reg. 4](#)

Interpretation: general

- 22 (1) In this Schedule—
- (a) references to “R” and “P” have the meanings given by paragraph 1, in relation to secondary liability and assessment notices, or 9, in relation to joint and several liability notices;

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- (b) references to P paying, failing to pay or being liable to pay an amount of plastic packaging tax are references to P paying, failing to pay or being liable to pay in accordance with provisions of or under this Part apart from this Schedule;
- (c) references to an amount of plastic packaging tax which P is liable to pay include references to an amount which P would have been liable to pay but for anything done, or not done, by R.

(2) In this Schedule—

“fulfilment business” means a business that stores or packs goods that are owned by another person with a view to sale by that person;

“online marketplace” means a website, or any other means by which information is made available over the internet, which facilitates the sale of goods through the website or other means by persons other than the operator (whether or not the operator also sells goods through the marketplace);

“operator” means the person who controls access to, and the contents of, the online marketplace or the fulfilment business.

(3) The Commissioners may by regulations—

- (a) provide that goods offered for sale in circumstances specified in the regulations are or are not to be treated, for the purposes of this Schedule, as having been offered through an online marketplace or a fulfilment business;
- (b) amend this paragraph so as to alter the definitions of “online marketplace”, “operator” and “fulfilment business”.

Commencement Information

I43 Sch. 9 para. 22 in force at 10.12.2021 for specified purposes by S.I. 2021/1409, reg. 3

I44 Sch. 9 para. 22 in force at 1.4.2022 in so far as not already in force by S.I. 2021/1409, reg. 4

Changes to legislation:

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