

Draft clauses for Plastic Packaging Tax

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Clause 1: Plastic Packaging Tax

Summary

1. This clause establishes a new tax called plastic packaging tax and provides that the Commissioners for HM Revenue and Customs (“the Commissioners”) will be responsible for its collection and management.

Details of the Clause

2. Subsection 1 introduces a new tax called “plastic packaging tax”.
3. Subsection 2 provides that the Commissioners are responsible for the collection and management of plastic packaging tax.

Background note

4. This is clause 1 of 40 in establishing plastic packaging tax.
5. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
6. Plastic packaging tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and will apply to plastic packaging manufactured in, or imported into the UK. There will be an exemption for businesses who manufacture and/or import less than 10 tonnes of plastic packaging in a 12-month period.
7. The tax will not be chargeable on plastic packaging which:
 - Has 30% or more recycled plastic content;
 - Is made of multiple materials of which plastic is not proportionately the heaviest when measured by weight;
 - Is manufactured or imported for use as immediate packaging of licensed human medicines;
 - Is in use as transport packaging to import products into the UK; or
 - Is exported, filled or unfilled, unless it is in use as transport packaging to

export products out of the UK.

8. HMRC will be responsible for administering the new tax.
9. Draft secondary legislation will be published in 2021-22.
10. If you have any questions about this change, or comments on the legislation, please contact HMRC, Indirect Tax Directorate, Excise and Environmental Taxes Policy Design Team, (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 2: Charge to plastic packaging tax

Summary

1. This clause provides for when the charge to plastic packaging tax arises.

Details of the Clause

2. Subsection 1 sets out that the tax applies to chargeable plastic packaging components manufactured in the UK or imported into the UK in the course of a business.
3. Subsection 2 sets out that commercial activities of charities and government departments or other public authorities are within the meaning of “a business” for the purposes of the tax.
4. Subsection 3 provides that the charge to plastic packaging tax is subject to the exemptions set out in Clause 11 (exempt plastic packaging components).

Background note

5. This is clause 2 of 40 in establishing plastic packaging tax.
6. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
7. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
8. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 3: Liability to pay plastic packaging tax

Summary

1. This clause sets out who is liable to pay plastic packaging tax.

Details of the clause

2. Subsection 1 sets out that where the chargeable plastic packaging component is manufactured in the UK, the person liable to pay plastic packaging tax is the UK manufacturer of the plastic packaging component.
3. Subsection 2 sets out that where a chargeable plastic packaging component is imported into the UK, the person liable to pay plastic packaging tax is the person on whose behalf the plastic packaging component is imported.

Background note

4. This is clause 3 of 40 in establishing plastic packaging tax.
5. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
6. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
7. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 4: Rate

Summary

1. This clause sets out the rate of plastic packaging tax, and how the tax is charged in relation to packaging components of a single specification.

Details of the clause

2. Subsection 1 sets the rate of plastic packaging tax at £200 per metric tonne of chargeable plastic packaging components of a single specification.
3. Subsection 2 prescribes how part of a tonne measurements of plastic packaging components are charged. The amount is proportionally reduced, meaning that the same rate is applied to that part of a tonne of chargeable plastic packaging components.

Background note

4. This is clause 4 of 40 in establishing plastic packaging tax.
5. Plastic packaging tax will apply from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
6. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
7. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 5: Payment

Summary

1. This clause sets out matters related to the payment of plastic packaging tax.

Details of the clause

2. Subsection 1 sets out that payments for plastic packaging tax are to be made by reference to accounting periods determined in accordance with regulations made under Clause 19.
3. Subsection 2 prescribes that any references to “accounting periods” for the purposes of plastic packaging tax are references to accounting periods as per subsection (1).

Background note

4. This is clause 5 of 40 in establishing plastic packaging tax.
5. Plastic packaging tax will apply from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
6. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
7. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 6: Chargeable plastic packaging components

Summary

1. This clause sets out when plastic packaging tax is chargeable on a plastic packaging component in relation to its plastic content, and when it is considered a finished plastic packaging component.

Details of the clause

2. Subsection 1 sets out that a plastic packaging component is chargeable if the proportion of recycled plastic is less than 30% of the total amount of plastic within it, when measured by weight, and it is a finished plastic packaging component.
3. Subsection 2 prescribes that packaging containing plastic will be treated as having less than 30% recycled plastic content unless it is demonstrated that at least 30% of the total amount of plastic is recycled, when measured by weight.
4. Subsection 3 sets out that a component is to be treated as finished when it has gone through its last substantial modification. This will be the last point in the manufacturing process necessary to enable the component to be plastic packaging ready to be packed or filled, whether alone or in combination with other components. This is the case even if waste or surplus material remains attached to it.
5. Subsection 4 explains that waste or surplus material that remains attached to the component after its last substantial modification will not be treated as part of the component in respect of plastic packaging tax and will therefore not be liable to the tax.
6. Subsection 5 provides for the Commissioners to make provision by regulations about the information or evidence required, or the methodology to be used, to check the amount of recycled plastic in a plastic packaging component and the meaning of “substantial modification” as referenced in subsection (3).

Background note

7. This is clause 6 of 40 in establishing plastic packaging tax.
8. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at the rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
9. The tax will encourage the use of recycled plastic instead of new plastic within

packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.

10. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 7: Meaning of “plastic packaging component”

Summary

1. This clause defines “packaging component” and “plastic packaging component” in respect of plastic packaging tax and provides for related regulations to be made.

Details of the clause

2. Subsection 1 defines a “packaging component” as:
 - A product that is designed to be used (either on its own or with other products) to contain, protect, handle, deliver or present goods when they are being moved from the manufacturer to the user or consumer;
 - A product not within the above bullet, which is designed to be used solely or mainly by the user or consumer to transport, store or preserve goods.
3. Subsection 2 defines a “plastic packaging component” as a component which, when measured by weight, contains more plastic than any other single substance listed in regulations under subsection (6).
4. Subsection 3 prescribes that any packaging components which contain plastic are to be treated as plastic packaging components unless it is demonstrated that they are not.
5. Subsection 4 gives the power to the Treasury to modify by regulations the meaning of “packaging component” by both adding or removing descriptions of products.
6. Subsection 5 provides that regulations as set out in subsection (4) may amend this Part.
7. Subsection 6 gives the power for the Commissioners by regulations to create a list of substances for the purposes of subsection (2), and to specify the types of information and evidence required, and methodology used to show that a packaging component containing plastic should not be treated as a plastic packaging component for the purposes of the tax.

Background note

8. This is clause 7 of 40 in establishing plastic packaging tax.
9. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging

which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.

10. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
11. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 8: Meaning of “plastic” and “recycled plastic”

Summary

1. This clause defines what “plastic” and “recycled plastic” mean for the purposes of plastic packaging tax.

Details of the clause

2. Subsection 1 defines “plastic” for the purposes of plastic packaging tax as a material comprising of a polymer to which additives or other substances may have been added. The definition specifically excludes cellulose-based polymers that have not been chemically modified.
3. Subsection 2 defines “recycled plastic” for the purposes of plastic packaging tax as recovered plastic that has been reprocessed by a chemical or manufacturing process which can then be used for its original or other purposes.
4. Subsection 3 excludes organic recycling from the chemical or manufacturing process referenced in the definition of recycled plastic.
5. Subsection 4 sets out that recovered material for the purposes of plastic packaging tax is material collected before or after use by a consumer (known as pre and post-consumer material, defined below) that is fed into a recycling or manufacturing process in place of virgin plastic, instead of it being disposed as waste or used for energy recovery.
6. Subsection 5 sets out that pre-consumer material for the purposes of plastic packaging tax is waste material collected from a manufacturing process which has been processed by a reprocessing facility.
7. Subsection 6 sets out that post-consumer material for the purposes of plastic packaging tax is material generated after the end use of a product (including industrial users and households) that can no longer be used for its original purpose, that is, items made or part-made of plastic that have been used and disposed of. Material returned from the distribution chain is also included in this definition.
8. Subsection 7 sets out the default position by specifying that plastic is not to be treated as recycled unless shown that it is in fact recycled plastic.
9. Subsection 8 provides powers to the Treasury to modify by regulations the meaning of “plastic” and “recycled plastic”.
10. Subsection 9 specifies that regulations under subsection (8) may amend this part.
11. Subsection 10 provides powers to the Commissioners to specify in regulations the type of methodology to be used, or the information or evidence required to show that

plastic is recycled plastic.

Background note

12. This is clause 8 of 40 in establishing plastic packaging tax.
13. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
14. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
15. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 9: Meaning of “imported”

Summary

1. This clause defines what “imported” means for the purposes of plastic packaging tax.

Details of the clause

2. Subsection 1 defines importation of a chargeable plastic packaging component as being when all customs formalities have been complied with, as described in the Customs and Excise Management Act 1979 section 1(1). In cases where imported chargeable plastic packaging components are not subject to those customs formalities, importation is at the time prescribed by customs and excise Acts.
3. Subsection 2 specifies that “the customs and excise Acts” has the same meaning as in section 1(1) of the Customs and Excise Management Act 1979.
4. Subsection 3 prescribes that this clause is subject to Clause 32 (Isle of Man: import and export of chargeable plastic packaging components).

Background note

5. This is clause 9 of 40 in establishing plastic packaging tax.
6. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
7. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
8. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 10: Plastic packaging components intended for export

Summary

1. This clause sets out the provisions for plastic packaging components that are intended for export.

Details of the clause

2. Subsection 1 provides for liability to account for plastic packaging tax to be deferred where a plastic packaging component is intended to be exported in line with the direct export conditions defined in subsection (2). This liability is cancelled altogether if the component is exported before the end of the deferral period set out in subsection (4) and following requirements set out in regulations.
3. Subsection 2 defines the direct export condition referred to in subsection (1). The condition is met if the deferral period (defined under subsection (4)) has not expired, the component has always been intended to be exported since it was made in the UK or imported, and any other requirements set out in regulations are fulfilled.
4. Subsection 3 allows the Commissioners to notify a liable person that the export condition has ceased to be met or that it was never met as appropriate, if they believe that one or more of the requirements is not fulfilled.
5. Subsection 4 specifies that if a notification under subsection (3) is issued, a liability to pay plastic packaging tax ceases to be deferred from a date specified in the notification or is taken to have never been deferred.
6. Subsection 5 defines the deferral period as 12 months, beginning with the day a plastic packaging component is manufactured or imported.
7. Subsection 6 specifies that this clause does not apply to plastic packaging components used to export goods from the UK that are transport or tertiary packaging as defined in the Packaging (Essential Requirements) Regulations 2015, or are road, rail, ship and air containers.
8. Subsection 7 specifies that this clause is subject to Clause 32 (Isle of Man: import and export of chargeable plastic packaging components).

Background note

9. This is clause 10 of 40 in establishing plastic packaging tax.
10. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging

which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.

11. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
12. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 11: Exempt plastic packaging components

Summary

1. This clause provides for exemptions from plastic packaging tax for certain plastic packaging components.

Details of the clause

2. Subsection 1 provides an exemption from plastic packaging tax for plastic packaging components used for importing goods into the UK that are transport or tertiary packaging as defined in the Packaging (Essential Requirements) Regulations 2015, or are road, rail, ship and air containers.
3. Subsection 2 provides for a plastic packaging component to be exempt from plastic packaging tax if subsections (3), (4) or (6) apply to that component.
4. Subsection 3 applies to plastic packaging components that are stores, as defined in Customs and Excise Management Act 1979.
5. Subsection 4 exempts from the tax plastic packaging components manufactured or imported for use in the immediate packaging of a medicinal product.
6. Subsection 5 defines “immediate packaging” and “medicinal product” in subsection (4) by reference to their meanings under the Human Medicines Regulations 2012.
7. Subsection 6 sets out an exemption for plastic packaging components which are designated or set aside, at or before the time of manufacture or import, for a use other than those covered by Clause 7(1), and where a record is kept of that designation by the manufacturer or person on whose behalf it was imported.
8. Subsection 7 gives powers to the Treasury to make provisions by regulations for further exemptions from plastic packaging tax.

Background note

9. This is clause 11 of 40 in establishing plastic packaging tax.
10. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
11. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased

levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.

12. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 12: Tax credits

Summary

1. This clause provides powers for the Commissioners to make regulations for tax credits to be available in circumstances where a person has become liable to account for plastic packaging tax on a component which is later exported from the UK or subsequently converted into a different packaging component.

Details of the clause

2. Subsection 1 gives the Commissioners the power by regulations to make provision in respect of cases where, after a person has become liable to account for plastic packaging tax on a component, that packaging is later exported or converted into a different packaging component.
3. Subsection 2 sets out the areas that may be covered by such regulations. These are:
 - Allowing a tax credit to the person who had become liable to account for plastic packaging tax on the packaging;
 - Offsetting the credit against plastic packaging tax payable for an accounting period or periods;
 - Allowing a repayment in certain cases.
4. Subsection 3 sets out that regulations under this clause may include provision for the administration of tax credits, including: requiring a claim to be made, how and when a claim to a tax credit should be made, requirements to be met to claim a credit, setting minimum and maximum credit amounts, periods of entitlement, information required to substantiate a claim, record and information keeping, and withdrawal of a tax credit if the requirements are not met. They may also provide for amendments to liability for plastic packaging tax if a tax credit entitlement is changed or withdrawn, the treatment of a tax credit where a person is no longer in business or liable to the tax, and the meaning of “converted”. Anything to be determined by regulations may be determined by general or specific directions by the Commissioners consistent with regulations.
5. Subsection 4 defines “prescribed” as meaning specified or determined in accordance with provision made by regulations under this clause.

Background note

6. This is clause 12 of 40 in establishing plastic packaging tax.
7. Plastic packaging tax will come into effect from April 2022. Announced at Budget

2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.

8. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
9. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 13: The register

Summary

1. This clause sets out that the Commissioners must keep a register of all persons who are registered for plastic packaging tax.

Details of the clause

2. Subsection 1 sets out the requirement for a register to be established and maintained by the Commissioners for the purposes of collecting and managing plastic packaging tax.
3. Subsection 2 allows the Commissioners to determine what information the register may contain as required for the purposes of subsection (1).
4. Subsection 3 explains that other references to “the register” in this Part mean the register under subsection (1) above, and that references to registration refer to registration in that register.

Background note

5. This is clause 13 of 40 in establishing plastic packaging tax.
6. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
7. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
8. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 14: Liability to register: producers and importers

Summary

1. This clause sets out the circumstances under which manufacturers and importers of plastic packaging components are liable to be registered for plastic packaging tax.

Details of the clause

2. Subsection 1 specifies that manufacturers and importers of plastic packaging components are liable to be registered for plastic packaging tax on a given day if they meet either of the criteria in subsection (2) on that day.
3. Subsection 2 sets out that a manufacturer or importer of plastic packaging components is liable to be registered for plastic packaging tax if either of the following applies:
 - There are reasonable grounds for believing that they are going to manufacture, import, or manufacture and import 10 tonnes or more of finished plastic packaging components in the next 30 days from any given day; or
 - They have manufactured, imported, or manufactured and imported 10 tonnes or more of such components in the past 12 months (looking back from the first day of any given calendar month).
4. Subsection 3 excludes finished plastic packaging components as set out in Clause 11(1) or (3) for the purposes of subsection (2), namely components in use as transport packaging, or road, rail, ship and air containers, to import products into the UK, or where they are stores.
5. Subsection 4 substitutes the words “over the previous 12 months” under subsection (2)(b), in relation to the first year of the tax, with “during the period beginning with 1 April 2022 and”. The effect of this is that only packaging manufactured in, or imported into, the UK after 1 April 2022 will be included in calculations of whether a person is liable to be registered for plastic packaging tax.

Background note

6. This is clause 14 of 40 in establishing plastic packaging tax.
7. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of

£200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.

8. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
9. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 15: Notification of liability and registration

Summary

1. This clause sets out the period in which a liable person must be registered for plastic packaging tax with the Commissioners.

Details of the clause

2. Subsection 1 states that when a person is liable to be registered for plastic packaging tax, they must notify the Commissioners of this before the end of a certain period called the notification period.
3. Subsection 2 specifies that the notification period is 30 days starting from the first day on which liability arises.
4. Subsection 3 requires the Commissioners to register a liable person from the day their liability arises, whether or not the person has notified the Commissioners themselves of the liability.
5. Subsection 4 states the Commissioners may by or under regulations make further provision with regards to how and what information will be required to notify of a liability to plastic packaging tax. This may also include requiring further information in connection with person's registration, and provision for notification and related communication, to be made electronically.

Background note

6. This is clause 15 of 40 in establishing plastic packaging tax.
7. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
8. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
9. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk.)

Clause 16: Cancellation of registration

Summary

1. This clause sets out when a registration in respect of plastic packaging tax can be cancelled.

Details of the clause

2. Subsection 1 provides that a registration for plastic packaging tax may only be cancelled if it meets the criteria set out in this clause.
3. Subsection 2 allows the Commissioners to cancel a registration if the registered person requests this and satisfies the Commissioners that they are not liable to be registered for plastic packaging tax on the day of the request.
4. Subsection 3 allows the Commissioners to cancel a registration if they are satisfied that the person concerned is not liable to be registered for plastic packaging tax and has not been liable for at least 12 months.
5. Subsection 4 allows the Commissioners to cancel a registration if they are satisfied that the person was not liable to be registered for plastic packaging tax when they registered and has not been liable since then.
6. Subsection 5 provides for a cancellation made on a request under subsection (2) to be effective from the date the request was made or from a later date by agreement between the registered person and the Commissioners.
7. Subsection 6 provides for a cancellation under subsection (3) to be effective from when the registered person was no longer liable to be registered for plastic packaging tax, or from a later date by agreement between the registered person and the Commissioners.
8. Subsection 7 provides that when a cancellation under subsection (4) is made it will take effect from the day the person was registered.
9. Subsection 8 prevents a registration being cancelled under subsections (2) or (3) if there are outstanding payments of plastic packaging tax due, or there are any outstanding returns for plastic packaging tax due from that person.
10. Subsection 9 permits the Commissioners to refuse to cancel a person's registration if they reasonably believe that the person will become liable to be registered for plastic packaging tax in the following 12 months.
11. Subsection 10 specifies that liability to be registered for plastic packaging tax is determined in respect of this clause by reference to the liability conditions set out in Clause 14.

Background note

12. This is clause 16 of 40 in establishing plastic packaging tax.
13. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
14. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
15. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 17: Correction of the register

Summary

1. This clause provides for the correction of entries in the plastic packaging tax register.

Details of the clause

2. Subsection 1 gives the Commissioners the power by regulations to make provision in respect of any corrections of the register.
3. Subsection 2 provides that regulations under subsection (1) may include provision to require persons registered, or liable to be registered, for plastic packaging tax to notify the Commissioners of relevant changes in circumstances.

Background note

4. This is clause 17 of 40 in establishing plastic packaging tax.
5. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
6. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
7. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 18: Measurement of weight etc

Summary

1. This clause provides for regulations to be made in relation to how the weight of a plastic packaging component is measured and assessed for the purpose of plastic packaging tax.

Details of the clause

2. Subsection 1 gives the Commissioners the power by regulations to make provision in respect of how weight is measured and assessed for the purposes of plastic packaging tax.
3. Subsection 2 explains that the regulations in subsection (1) may include provision for such things as:
 - How weight is to be measured, and in what time period;
 - The evidence requirements to support any measurements;
 - For the Commissioners to reach agreements with specific people about the method, or type of evidence, used to measure or determine weight, and certain circumstances when the Commissioners can disregard these agreements;
 - For the Commissioners to make their own assessments or best judgments of the weight of plastic packaging components, which may be based on estimates and assumptions, and that this assessment or judgment may be used in place of a previous assessment made by anyone else;
 - For the Commissioners to weigh and inspect plastic packaging components or samples themselves and base their assessments on estimates or assumptions.

Background note

4. This is clause 18 of 40 in establishing plastic packaging tax.
5. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.

6. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
7. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 19 and Schedule 1: Payment, collection and recovery

Summary

1. This clause provides for regulations to be made for plastic packaging tax in relation to the payment, collection and recovery of the tax. The schedule makes provision relating to recovery, overpayments and set-off of amounts due or owing of plastic packaging tax or other taxes.

Details of the clause

2. Subsection 1 gives the Commissioners the power by regulations to set out the arrangements for payment, collection and recovery of plastic packaging tax.
3. Subsection 2 sets out that regulations made under subsection (1) may include provisions for determining the accounting period for payments, requirements for keeping accounts and making returns, the timing and method of payment, requirements for the amounts payable by reference to tax periods to be determined by or under regulations, and the correction of errors in accounting for the tax.
4. Subsection 3 gives more detail on what the regulations in respect of returns can cover, namely how and when returns should be made, what information returns should include, and the period to which each return should relate.
5. Subsection 4 introduces Schedule 1, which sets out provision for recovery, overpayments and set-off of plastic packaging tax or other taxes owed against refunds due of plastic packaging tax and other taxes.

Details of the Schedule

6. Part 1 of Schedule 1 (paragraphs 1 - 6) deals with the recovery of plastic packaging tax.
7. Part 2 of Schedule 1 (paragraphs 7 - 14) deals with repayments of plastic packaging tax.
8. Part 3 of Schedule 1 (paragraphs 15 - 16) deals with further provisions about notices to a person's representative and the service of notices for plastic packaging tax.
9. Part 4 of Schedule 1 (paragraphs 17 - 19) deals with set-off in respect of amounts owed of plastic packaging tax and other taxes.

Part 1 – Recovery*Recovery as a debt due*

10. Paragraph 1 provides for any debt due with regards to plastic packaging tax to be recoverable as a debt to the Crown, that is, a tax that is payable and liable for collection.

Assessments of amounts of plastic packaging tax due

11. Paragraph 2 sub-paragraph 1 sets out that sub-paragraph (2) applies where there has been a relevant default (as defined at sub-paragraph (3)) by a person for an accounting period where they were registered or liable to be registered, and an amount of plastic packaging tax by reference to that period has become due.
12. Paragraph 2 sub-paragraph 2 gives the Commissioners powers to make their best assessment of the tax due if it cannot be ascertained, or to assess the amount due where it can be ascertained, and requires them to tell the person liable of the amount owing.
13. Paragraph 2 sub-paragraph 3 defines “relevant defaults” as the failure to: comply with registration requirements and update changes to registration information, make returns, keep records, to make complete and accurate returns, maintain records to verify the tax, supply the Commissioners with complete or accurate information in compliance with any requirement in respect of this Part and to meet any of these requirements in a reasonable timeframe.
14. Paragraph 2 sub-paragraph 4 provides that where the default is by someone acting on behalf of another person (the representative) to make a return, reference to amounts of plastic packaging tax due under sub-paragraph (1) above includes amounts of plastic packaging tax due from the person who is being represented.
15. Paragraph 3 sub-paragraph 1 sets out the situation where sub-paragraph (2) applies, that is, where a person has failed to make a return and the Commissioners have made an assessment for that accounting period which has been paid but without a return then being submitted, and the Commissioners make a further assessment in relation to the subsequent failure to make a return.
16. Paragraph 3 sub-paragraph 2 permits the Commissioners in the new assessment to include additional amounts they consider appropriate in light of there being a previous absence of a proper return. In effect, it allows the Commissioners in making the assessment not to be limited to the later period only.

Supplementary assessments

17. Paragraph 4 sub-paragraph 1 states that this provision applies where the Commissioners have made an assessment under paragraph 2 and now recognise that a further amount of tax is due for that period.
18. Paragraph 4 sub-paragraph 2 permits the Commissioners to make a further assessment to the best of their judgment of the additional amount due in these circumstances and requires them to notify the person liable of this amount.

Further provision about assessments under paragraph 2 and 4

19. Paragraph 5 sets out that any amount assessed by the Commissioners under this Schedule can be recovered on the basis that it is plastic packaging tax that is due, unless the assessment has been reduced or withdrawn.

Time limits for assessments

20. Paragraph 6 sub-paragraph 1 states that an assessment under either paragraph 2 or 4 cannot be made after the end of a relevant period.
21. Paragraph 6 sub-paragraph 2 defines the relevant period as 4 years from the end of the accounting period to which the assessment relates, unless sub-paragraph (3) applies.
22. Paragraph 6 sub-paragraph 3 sets out an exception to the 4-year relevant period. This is where a case involves loss of plastic packaging tax caused deliberately by a person, or the loss is due to a failure to comply with regulations as detailed under Clause 14 (liability to register) or under Clause 17 (registration and keeping held information up to date). In these cases, the relevant period is 20 years from the end of the accounting period to which the assessment relates.
23. Paragraph 6 sub-paragraph 4 explains that a loss brought about deliberately by a person in sub-paragraph (3) also includes deliberate inaccuracies of documents given to HMRC by the person so as not to pay plastic packaging tax.
24. Paragraph 6 sub-paragraph 5 explains that the loss brought about by a person in sub-paragraph (3) and (4) can also be by another person acting on behalf of that person.

Part 2 – Repayments

Repayments of overpaid tax

25. Paragraph 7 sub-paragraph 1 states that this paragraph applies to people who have paid plastic packaging tax to the Commissioners where it was not due.
26. Paragraph 7 sub-paragraph 2 requires the Commissioners to repay amounts overpaid where they are claimed by the person who made the payment in sub-paragraph (1) above.
27. Paragraph 7 sub-paragraph 3 provides for the Commissioners the power by regulations to set out how claims for repayments are to be made and the information required to support such claims.
28. Paragraph 7 sub-paragraph 4 provides that with exception of the provisions set out in this paragraph, the Commissioners are not liable to repay any plastic packaging tax that was not due.
29. Paragraph 7 sub-paragraph 5 states this paragraph is subject to paragraph 8.

Supplementary provisions about repayment etc.

30. Paragraph 8 sub-paragraph 1 sets out that the Commissioners are not liable to repay any repayment claims if the claim is made more than 4 years after the plastic packaging tax was paid or the person was entitled to a tax credit in relation to that amount.

31. Paragraph 8 sub-paragraph 2 allows claims for repayment to be defended if it is likely that the money refunded will unjustly enrich the claimant. For example, if the tax wrongly paid was passed on to a subsequent customer as part of the cost of the product and the overpayment would likely not be refunded to this customer, the original taxpayer would be unjustly enriched by the refund.
32. Paragraph 9 sub-paragraph 1 sets out that the conditions in this paragraph apply where a repayment would be due to someone (apart from the defence of unjust enrichment) and where some or all of the cost of the original payment of plastic packaging tax has in fact been borne by a different person.
33. Paragraph 9 sub-paragraphs 2 - 3 state that in assessing whether, and to what extent, any repayment would unjustly enrich the taxable person, any loss or damage to that person resulting from mistaken assumptions about any provisions relating to plastic packaging tax should be disregarded in arriving at appropriate compensation for that person's business losses.
34. Paragraph 9 sub paragraph 4 explains the reference to "provisions relating to plastic packaging tax" in sub-paragraph (2) as any legislation relating to the plastic packaging tax or any matter connected with it, or any related notice published by the Commissioners under such legislation.

Reimbursement arrangements

35. Paragraph 10 sub-paragraph 1 provides for the Commissioners the power to provide by regulations that reimbursement arrangements can be disregarded when considering unjust enrichment, unless those reimbursement arrangements comply with provisions required by regulations and are supported by undertakings to comply with the arrangements set out in regulations.
36. Paragraph 10 sub-paragraph 2 sets out what "reimbursement arrangements" means with regards to this paragraph, namely that they are arrangements to make reimbursement by a person claiming a repayment of plastic packaging tax, to another person who has for practical purposes borne the whole or part of cost of the tax to the Commissioners, in order for the person claiming repayment to secure that they have not been unjustly enriched of any amount.
37. Paragraph 10 sub-paragraph 3 provides for regulations under this paragraph in relation to reimbursement arrangements for plastic packaging tax. These may include requiring reimbursement to be made within a time limit after repayment, repayment to the Commissioners of amounts which have not been reimbursed, interest payments, records to substantiate payments, and imposing obligations on certain persons for the purposes of provisions made above.
38. Paragraph 10 sub-paragraph 4 provides that regulations under this paragraph may make provision in relation to how the administration of undertakings given to the Commissioners under the regulations will be made, the timing of these undertakings, and for those matters to be determined by the Commissioners according to the regulations.

Assessment for excessive repayment

39. Paragraph 11 sub-paragraph 1 prescribes that sub-paragraph (3) applies when the Commissioners have made a repayment of plastic packaging tax in excess of the amount that should have been repaid.
40. Paragraph 11 sub-paragraph 2 prescribes that sub-paragraph (3) also applies when a person has liability to pay any amount to the Commissioners under a number of the requirements at paragraph 10.
41. Paragraph 11 sub-paragraph 3 sets out that the Commissioners may use their best judgment to make an assessment to calculate the excess or the amount owing according to sub-paragraphs (1) and (2) and the amount must be notified to the person.
42. Paragraph 11 sub-paragraph 4 provides for combining an assessment for excess repayment under these provisions with an assessment for plastic packaging tax payable under Part 1 of the Schedule into a single assessment.
43. Paragraph 11 sub-paragraph 5 sets out that a combined assessment under sub-paragraph (4) must separately identify the different elements of the assessment.

Supplementary assessments

44. Paragraph 12 sub-paragraph 1 describes the circumstance where the Commissioners have notified a person of an assessment under paragraph 11, and it then appears to the Commissioners that the amount which ought to be due is more than that originally assessed.
45. Paragraph 12 sub-paragraph 2 provides for the Commissioners to make a supplementary assessment within the time that the assessment under paragraph 11 could have been issued and notify this amount to the person.

Further provisions about assessments under paragraphs 11 and 12

46. Paragraph 13 sub-paragraph 1 sets out that amounts notified under paragraphs 11 and 12 are recoverable as an amount of plastic packaging tax due.
47. Paragraph 13 sub-paragraph 2 prescribes that sub-paragraph (1) does not apply if the assessment has been withdrawn or reduced.

Time limits for assessments

48. Paragraph 14 sets out that assessments under paragraph 11 and 12 cannot be made more than 2 years after the Commissioners held sufficient evidence to make that assessment.

Part 3 – Further provision about notices under Parts 1 and 2 of this Schedule*Notifications to a person's representative*

49. Paragraph 15 sub-paragraphs 1 – 2 explain that notices issued on assessments by the Commissioners under paragraph 2, 4, 11 or 12 to a person's representative are treated as though they are issued to the person whom the representative acts for, for the purposes of Parts 1 and 2 of this Schedule. Sub-paragraph (2) provides the scope of what is meant by "representative" in sub-paragraph (1).

Service of notices

50. Paragraph 16 explains that a notice under Part 1 or 2 may be posted to a person at their last known address.

Part 4 – Set-off*Amounts due in respect of plastic packaging tax*

51. Paragraph 17 sub-paragraph 1 gives the Commissioners the power by regulations to provide for the set-off arrangements in relation to cases where an amount of plastic packaging tax is owed by the taxpayer, but at the same time the Commissioners are also under a duty to pay that person amounts of plastic packaging tax or other taxes.
52. Paragraph 17 sub-paragraph 2 provides that relevant regulations may allow plastic packaging tax owed to be offset against refunds of plastic packaging tax or other taxes, with the difference in the two figures being payable by or to the Commissioners. Also, they may allow any time limit on when the Commissioners should recover amounts due to them to be disregarded in certain cases, when considering amounts due under sub-paragraph (1). Provisions may also be made to treat any duty to pay under sub-paragraph (1) as discharged.
53. Paragraph 17 sub-paragraph 3 includes penalties and interest in connection with tax owed in the scope of the offset arrangements.
54. Paragraph 17 sub-paragraph 4 sets out the meaning of “tax” as including a duty or levy and that “specified” means as specified in regulations under this paragraph.

Other taxes

55. Paragraph 18 sub-paragraph 1 gives the Commissioners power to make regulations in relation to cases where an amount of tax other than plastic packaging tax is due by a person, but at the same time the Commissioners are also under a duty to pay that person amounts in respect of plastic packaging tax and any other taxes.
56. Paragraph 18 sub-paragraph 2 states that regulations under this paragraph may include setting off balances of other taxes against any payments due to be paid by the Commissioners, any balances due to be repaid against any other tax that is due to be paid and if the two amounts are the same no payments are made under either. Also, they may allow any time limit on when the Commissioners should recover amounts due to them to be disregarded in certain cases, when considering amounts due under sub-paragraph (1). Provisions may also be made to treat any duty to pay under sub-paragraph (1) as discharged.
57. Paragraph 18 sub-paragraph 3 states that amounts of any other taxes that are due include any interest or penalties which can be recovered as though they are an amount of tax due.
58. Paragraph 18 sub-paragraph 4 sets out the meaning of “tax” as including a duty or levy and that “specified” means as specified in regulations under this paragraph.

Restriction on powers to provide for set-off: insolvency

59. Paragraph 19 sub-paragraph 1 prevents the set-off provisions under paragraphs 17 and 18 from being used where the person concerned is in an insolvency procedure, the credit aspect of the offset arose after the start of the insolvency procedure and the debt arose before the insolvency procedure or applies to matters in the course of business before the insolvency procedure.
60. Paragraph 19 sub-paragraph 2 states that the definition of insolvency procedure as set out in paragraph 11 sub-paragraphs (2) to (5) of Schedule 8 to the Finance Act 2001 are to be used for the purposes of this paragraph.

Background note

61. This is clause 19 of 40 in establishing plastic packaging tax.
62. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
63. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
64. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 20 and Schedule 2: Reviews and appeals

Summary

1. This clause and schedule provide for reviews and appeals in respect of plastic packaging tax.

Details of the clause

2. This clause introduces Schedule 2 which sets out the provisions for reviews and appeals in respect of plastic packaging tax.

Detail of the Schedule

3. Part 1 of Schedule 2 (paragraphs 1 - 2) deals with appealable decisions in respect of plastic packaging tax.
4. Part 2 of Schedule 2 (paragraphs 3 - 9) deals with reviews of decisions in respect of plastic packaging tax.
5. Part 3 of Schedule 2 (paragraphs 10 - 13) deals with appeals in respect of plastic packaging tax.

Part 1 – Appealable Decisions etc

Appealable decisions etc

6. Paragraph 1 subsection 1 sets out what decisions made by the Commissioners, or an officer of HMRC, can be appealed against in respect of plastic packaging tax. This includes: liability, the amount payable, registration and cancellation of registration, tax credits, security requirements, repayments and recovery of amounts repaid incorrectly, penalties, and accounting periods.
7. Paragraph 1 subsection 2 sets out what determinations and directions made by the Commissioners, or an officer of HMRC, may be appealed against. This includes: determination that something is a plastic packaging component and/or is chargeable, directions relating to carrying on a business after death, incapacity or insolvency and transfer of a business as a going concern. It also includes directions on the records and information a business needs to keep, and determinations and directions in relation to appointment of tax representatives, prevention of artificial separation of business activities and applications or terminations relating to group treatment.
8. Paragraph 2 clarifies that references to a decision in Parts 2 and 3 include determinations and directions.

Part 2 – Reviews*Offer of review*

9. Paragraph 3 sub-paragraph 1 sets out that HMRC must offer a person a review of an appealable decision notified to them in respect of plastic packaging tax.
10. Paragraph 3 sub-paragraph 2 requires that the offer of review must be made at the same time the person is notified of the decision.
11. Paragraph 3 sub-paragraph 3 explains that paragraph 3 does not apply to the notification of the review's conclusions.

Right to require review

12. Paragraph 4 sub-paragraph 1 provides that any person with the right of appeal against a decision (apart from the person to whom the decision was notified) can seek a review providing that no appeal to the tribunal has already been made.
13. Paragraph 4 sub-paragraph 2 states that the person must request such a review within 30 days of becoming aware of the decision.

Review by HMRC

14. Paragraph 5 sub-paragraph 1 requires HMRC to review a decision if the offer of a review is accepted within 30 days of the date on the notification of the decision.
15. Paragraph 5 sub-paragraph 2 provides that an offer of review cannot be sought if an appeal to the tribunal has already been made.
16. Paragraph 5 sub-paragraph 3 requires that HMRC must review a decision if requested to do so by someone other than the person to whom the decision was made as per paragraph 4.
17. Paragraph 5 sub-paragraph 4 explains that no review is possible if an appeal to the tribunal has already been made against the decision by anyone entitled to do so.

Extensions of time for review

18. Paragraph 6 sub-paragraph 1 permits HMRC to notify an extension to the time period to seek a review of a decision within the relevant period for doing so, if the person has been offered a review under paragraph 3 of this Schedule.
19. Paragraph 6 sub-paragraph 2 permits HMRC to notify an extension to the relevant period of notification for a review of a decision, within the existing time period for doing so, to another person entitled to seek a review as per paragraph 4 of this Schedule.
20. Paragraph 6 sub-paragraph 3 provides for any such extension to be 30 days from the date of the notice of the extension, or 30 days from a date set out in that notice or a further notice issued later.
21. Paragraph 6 sub-paragraph 4 defines the "relevant period" to be the initial 30 days from the date of the decision in paragraphs 4(2) or 5(1)(b) of this Schedule, or a period extended by issue of a notice under this Schedule.

Review out of time

22. Paragraph 7 sub-paragraph 1 sets out that the provisions in this paragraph apply where a review has not been accepted or requested in the initial or extended (where relevant) time allowed to do so.
23. Paragraph 7 sub-paragraph 2 requires HMRC to carry out a review if they accept that there was good reason for not requesting the review within the time limit, and the request is made in writing, as soon as reasonably possible after that time.
24. Paragraph 7 sub-paragraph 3 provides that no review is possible under this paragraph if an appeal to the tribunal has already been made.

Nature of review etc.

25. Paragraph 8 sub-paragraph 1 explains that this paragraph applies where HMRC are required to carry out a review or a review out of time.
26. Paragraph 8 sub-paragraph 2 sets out that how the decision is reviewed and what is reviewed are to be determined appropriate by HMRC according to the circumstances of the case.
27. Paragraph 8 sub-paragraph 3 provides that the scope and manner of the review should take note of how the decision was made by HMRC and any action taken by any person to try to resolve the disagreement.
28. Paragraph 8 sub-paragraph 4 states that the review should consider any representations by the person seeking the review when they are submitted in a reasonable time to enable consideration by HMRC.
29. Paragraph 8 sub-paragraph 5 sets out that a review must reach one of three conclusions about the decision in question: upheld, varied or cancelled.
30. Paragraph 8 sub-paragraph 6 explains that HMRC must tell the person requesting the review the outcome within 45 days of the relevant date specified in sub-paragraph (7) below or within a longer period by agreement.
31. Paragraph 8 sub-paragraph 7 sets out that the starting date for the period in sub-paragraph (6) is the date that HMRC received notification accepting the offer of a review, or in the case of out of time reviews, the date when HMRC agreed to carry out the review.
32. Paragraph 8 sub-paragraph 8 sets out that where HMRC does not provide a notice of the conclusion in the required period, the review will be treated as concluded with the decision upheld.
33. Paragraph 8 sub-paragraph 9 states that if sub-paragraph (8) applies, HMRC must notify the person or other person that the conclusion of the review has been treated as being reached.

Service of notices

34. Paragraph 9 provides that notices may be sent to the person by post to their last known address.

Part 3 – Appeals

“Appeal tribunal”

35. Paragraph 10 defines that “appeal tribunal” in this Schedule means the First-tier Tribunal, or where determined by or under Tribunal Procedures, the Upper Tribunal.

Bringing of appeals

36. Paragraph 11 sub-paragraph 1 sets out that an appeal to the tribunal must be made within 30 days from the date on which the appellant is notified of the decision or becomes aware of the decision (if the appellant is not the person to whom the decision relates), or by the end of the relevant period defined under paragraph 6.
37. Paragraph 11 sub-paragraph 2 states that sub-paragraph (1) is subject to sub-paragraphs (3) – (5).
38. Paragraph 11 sub-paragraph 3 sets out that if a review is to be undertaken under paragraph 5, an appeal to the tribunal cannot be made until a conclusion to the review has been reached, and the appeal must be made within 30 days of the conclusion date
39. Paragraph 11 sub-paragraph 4 covers the situation where an out of time review is requested under paragraph 7. In this case, an appeal must be made within 30 days of the review concluding if the Commissioners have notified the appellant that it will be carried out. If the request for a review is rejected, an appeal can only be made if the tribunal allows it.
40. Paragraph 11 sub-paragraph 5 states that if the decision is treated as upheld due to HMRC not providing a notice of the conclusion in the required period, then an appeal must be made within 30 days of the end of the conclusion date allowed for the review.
41. Paragraph 11 sub-paragraph 6 states an appeal can be made later than the time specified in this Schedule with the agreement of the appeal tribunal.
42. Paragraph 11 sub-paragraph 7 defines “conclusion date” for this paragraph as the date of the document advising the outcome of the review, which then becomes the start date for the time allowed for an appeal.

Further provisions about appeals

43. Paragraph 12 sub-paragraph 1 makes the requirement that an appeal to the tribunal about the amount of plastic packaging tax due is to be considered only once the amount in question had been paid or deposited with HMRC.
44. Paragraph 12 sub-paragraph 2 states that if the amount of plastic packaging tax has not been paid, an appeal can be considered if HMRC or the appeal tribunal accept an application from the appellant that the requirement to do so would cause them to suffer hardship.
45. Paragraph 12 sub-paragraph 3 states that despite the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007 providing for appeals to the upper tier tribunals and the courts, there can be no further appeal on the appeal

tribunal's decision on issue of hardship.

Determinations on appeal

46. Paragraph 13 sub-paragraph 1 provides for the situation where an appeal tribunal finds that additional plastic packaging tax is payable and directs an amount to be paid. In this case, the effect is as if the correct amount was originally assessed as due.
47. Paragraph 13 sub-paragraph 2 allows an appeal tribunal which finds that a decision could not have reasonably been made by the Commissioners to no longer have effect from a date of their choosing, or to direct the Commissioners to review the decision.
48. Paragraph 13 sub-paragraph 3 sets out that if the appeal tribunal find that a penalty or an interest amount arises, the tribunal must not change the amount payable of plastic packaging tax except using a power under Clause 36 (penalties) or to make the amount payable conform to the liability set out by this Part.
49. Paragraph 13 sub-paragraph 4 extends value added tax provisions for the settlement of appeals by referring to this paragraph in this Schedule and including plastic packaging tax where value added tax is referenced.

Background note

50. This is clause 20 of 40 in establishing plastic packaging tax.
51. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
52. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
53. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk.)

Clause 21: Records

Summary

1. This clause provides for regulations to be made for plastic packaging tax in relation to record keeping requirements.

Details of the clause

2. Subsection 1 gives the Commissioners the power by regulations to require people to keep specified records and to preserve records for specified periods.
3. Subsection 2 allows the records, or the information contained in them, to be preserved in any way subject to any conditions or exceptions provided by regulations.
4. Subsection 3 empowers the Commissioners to direct a person who is, or is liable to be, registered for the tax to keep specified records or to preserve records for a specified period.
5. Subsection 4 limits the use of subsection (3) to cases where the Commissioners have reasonable grounds to believe that the records relate to chargeable plastic packaging components upon which plastic packaging tax may not have been paid.
6. Subsection 5 sets out that directions under this clause should be in writing, setting out the consequences of non-compliance with the requirements, and can be revoked or amended by a subsequent direction.
7. Subsection 6 sets the maximum period for which records are required to be kept by either regulations or directions under this clause as 6 years starting with the end of the accounting period to which the records relate.

Background note

8. This is clause 21 of 40 in establishing plastic packaging tax.
9. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is set at £200 per tonne of plastic packaging components in a chargeable line and there will be a limited number of exemptions.
10. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.

11. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 22 and Schedule 3: Information and evidence

Summary

1. This clause and schedule set out provisions for the collection and sharing of information and the use of evidence in proceedings in respect of plastic packaging tax.

Detail of the clause

2. This clause introduces Schedule 3 which provides for the collection and sharing of information, as well as evidence requirements, in respect of plastic packaging tax.

Detail of the Schedule

Part 1 – Information

Power to take samples

3. Paragraph 1 sub-paragraph 1 provides for samples to be taken from a component by an authorised person to establish its treatment in respect of plastic packaging tax.
4. Paragraph 1 sub-paragraph 2 sets out the circumstances when samples can be taken by an authorised person. These are for cases where there is reasonable cause to believe the component is a chargeable plastic packaging component, and the sampling is considered by the Commissioners to be necessary for the protection of the revenue against mistake or fraud.
5. Paragraph 1 sub-paragraph 3 provides for the Commissioners to direct how the sample must be disposed of.
6. Paragraph 1 sub-paragraph 4 defines an “authorised person” in this paragraph as someone the Commissioners give authority to carry out the sampling process.

Disclosure of information

7. Paragraph 2 sub-paragraph 1 provides for the disclosure of information that is collected and or held by the Commissioners in respect of plastic packaging tax to the public bodies listed, or to an authorised officer of those listed.
8. Paragraph 2 sub-paragraph 2 allows for the disclosure of information with the organisations listed in sub-paragraph (1) only for the purpose of assisting them in carrying out their work.

9. Paragraph 2 sub-paragraph 3 provides for the organisations listed in sub-paragraph (1) to disclose information to the Commissioners, or their authorised officer, to enable the Commissioners to carry out their work in respect of plastic packaging tax.
10. Paragraph 2 sub-paragraph 4 prohibits any charge being raised for the disclosure of information between the organisations listed in sub-paragraph (1) and the Commissioners.
11. Paragraph 2 sub-paragraph 5 states that no information can be disclosed under these provisions that goes against data protection legislation.
12. Paragraph 2 sub-paragraph 6 explains that “data protection legislation” in this paragraph refers to section 3 of the Data Protection Act 2018.
13. Paragraph 2 sub-paragraph 7 states that reference to an authorised officer means any person given authority to disclose or receive information under these provisions by the organisation.

Part 2 – Evidence

Evidence by certificate

14. Paragraph 3 provides that a certificate from the Commissioners in respect of whether someone was or was not registered for plastic packaging tax, or that a return had not been made at any time, is sufficient evidence to prove those matters in court. A copy certified by the Commissioners of any document may be admissible in any proceedings to the same extent as the document itself. A document purporting to be a certificate from the Commissioners will be accepted as such unless shown otherwise.

Inducements to provide information

15. Paragraph 4 sub-paragraph 1 sets out this paragraph will apply in criminal proceedings relating to plastic packaging tax or all civil and criminal proceedings relating to the recovery of an amount due in respect of plastic packaging tax.
16. Paragraph 4 sub-paragraph 2 provides that statements and documents will not be considered inadmissible in these proceedings where a person has been, or may have been, induced to produce a document or make a statement by virtue of the Commissioners drawing attention to their power to impose a civil penalty rather than initiate criminal proceedings.
17. Paragraph 4 sub-paragraph 3 sets out the Commissioners’ power to make an assessment of amounts due under a civil penalty instead of pursuing criminal proceedings, and that they can take into account any co-operation a person has given in an investigation.
18. Paragraph 4 sub-paragraph 4 sets out the Commissioners, or an appeal tribunal, have the power to reduce a penalty under this Part.

Background note

19. This is clause 22 of 40 in establishing plastic packaging tax.
20. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
21. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
22. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 23: Security for tax

Summary

1. This clause provides for regulations to be made requiring security for payment of plastic packaging tax where necessary to protect the revenue.

Details of the clause

2. Subsection 1 gives the Commissioners the power to use regulations to set out when and how a person liable to be registered for plastic packaging tax may be required to provide security against their current or future liability.
3. Subsection 2 specifies that the Commissioners may only use the provision in subsection (1) for the protection of the revenue.

Background note

4. This is clause 23 of 40 in establishing plastic packaging tax.
5. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
6. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
7. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 24: Statements for business customers

Summary

1. This clause sets out requirements relating to the inclusion of a “PPT statement” on certain invoices.

Details of the clause

2. Subsection 1 requires suppliers of plastic packaging components upon which a charge to plastic packaging tax has arisen to include a statement of the amount of plastic packaging tax associated with those components on invoices issued to business customers. This is known as a “PPT statement”.
3. Subsection 2 gives the Commissioners the power by regulations to specify the information the PPT statement must contain.
4. Subsection 3 defines a “business customer” referenced in subsection (1) as a person who is supplied with a plastic packaging component in the course of carrying out “a business” as defined in Clause 2(2).

Background note

5. This is clause 24 of 40 in establishing plastic packaging tax.
6. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
7. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
8. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 25: Tax representatives of non-resident taxpayers

Summary

1. This clause provides for regulations to be made for plastic packaging tax in relation to requiring non-resident taxpayers to appoint a tax representative resident in the UK and sets out the role and responsibilities of such a representative.

Details of the clause

2. Subsection 1 gives the Commissioners the power by regulations to require every non-resident taxpayer to appoint a UK resident tax representative for the purposes of plastic packaging tax.
3. Subsection 2 sets out a range of administrative matters the Commissioners may by regulation require in respect of tax representatives, including provisions on the notification of being a non-resident taxpayer, notification of appointment of a tax representative, approval of tax representatives being required before the appointment takes effect, direction for a tax representative to be replaced, circumstances when a tax representative ceases to act for a taxpayer and withdrawal of approval to act as a tax representative, use of agents by tax representatives, and the procedures and time limits for all these matters.
4. Subsection 3 sets out that a tax representative may act on behalf of a taxpayer for all matters in respect of plastic packaging tax and places a duty on them to ensure compliance with the requirements of the tax by the taxpayer (including any obligations which arose before they were appointed). Exceptions to this duty of tax representatives may be specified in regulations.
5. Subsection 4 sets out that a person who is or has been a tax representative is personally jointly and severally liable for failures of the non-resident taxpayer to meet any plastic packaging tax obligations and liabilities, and for any actions they take while acting as their tax representative.
6. Subsection 5 sets out that tax representatives are not themselves required to register for plastic packaging tax, but that the Commissioners may by regulations require that tax representatives be named against the registration of the non-resident taxpayers they represent, and for tax representatives to be removed from this record when they stop acting as such.
7. Subsection 6 clarifies that a tax representative is not guilty of an offence by virtue of this clause, unless they consented to, or connived in, the offence, or it was attributable to any neglect on their part, or they failed to meet an obligation which falls on them and the non-resident taxpayer they represent.
8. Subsection 7 defines “non-resident taxpayer” as a person who is liable to be

registered for plastic packaging tax and is not resident in the UK.

9. Subsection 8 explains that a person is resident in the UK for the purposes of subsection (7) if they have a place of business in the UK, they reside in the UK or is part of a business or unincorporated body where at least one member resides in the UK.

Background note

10. This is clause 25 of 40 in establishing plastic packaging tax.
11. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
12. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
13. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 26: Adjustment of contracts

Summary

1. This clause provides for the adjustment of existing contracts in respect of plastic packaging tax.

Detail of the clause

2. Subsections 1 - 2 provide that payments under contracts for the supply of chargeable plastic packaging components, which are agreed before either plastic packaging tax becomes chargeable on a component, or a change in the amount of plastic packaging tax chargeable on the components, may be adjusted by the supplier to take account of the new value of the tax, unless the terms of the contract explicitly prohibit such an adjustment.
3. Subsections 3 - 4 cover the scenario where a tax paid chargeable packaging component is supplied to a buyer under a contract. The buyer then converts the component, or becomes aware that the component is converted, into a different chargeable component. The contract may then be adjusted to require the buyer of the component to supply information about the subsequent conversion to the seller, unless the terms of the contract explicitly prohibit such an adjustment. This information is required by the seller to make a claim for a tax credit as a result of the subsequent conversion of the component.
4. Subsection 5 states for the purposes of the provisions of this clause it is irrelevant when the contract was made, or if the contract also provides for other matters.

Background note

5. This is clause 26 of 40 in establishing plastic packaging tax.
6. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
7. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
8. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 27 and Schedule 4: Groups of companies

Summary

1. This clause and schedule set out when and how two or more corporate bodies are to be treated as a group in respect of plastic packaging tax.

Details of the clause

2. Subsection 1 sets out that subsection (2) applies where corporate bodies are liable to plastic packaging tax when they are a member of a group in respect of plastic packaging tax.
3. Subsection 2 provides for plastic packaging tax incurred by a member of a group to be treated as charged to the representative member of the group.
4. Subsection 3 provides that while the tax incurred by a group member is charged to the representative members, all corporate bodies in the group at the time, or who join the group while the tax is unpaid, are joint and severally liable for the tax in the event of non-payment.
5. Subsection 4 sets out that Schedule 4 provides for when a corporate body is treated as a member of a group and the identity of the representative member.
6. Subsection 5 introduces Schedule 4 and provides for two or more corporate bodies to be treated as a group in respect of plastic packaging tax.

Detail of the Schedule

Bodies eligible for group treatment

7. Paragraph 1 sub-paragraph 1 provides that where two or more corporate bodies, at least one of which has an established presence in the UK, are under the same control (defined below), they are eligible to be treated as members of the same group for the purposes of plastic packaging tax (hereafter, “group”).
8. Paragraph 1 sub-paragraph 2 explains that to be the representative member of a group, the corporate body must be resident, or have a permanent establishment, in the UK.
9. Paragraph 1 sub-paragraph 3 sets out that a corporate body may only be a member of one group at any given time.
10. Paragraph 2 sets out the conditions for corporate bodies being ‘under the same control’ for the purpose of paragraph 1. This includes control of the corporate bodies

by an individual, a partnership or another corporate body.

Application for group treatment

11. Paragraph 3 sub-paragraph 1 provides that an application for group status under plastic packaging tax may be made by the eligible corporate bodies to the Commissioners setting out when the arrangement is to begin (the “specified time”).
12. Paragraph 3 sub-paragraph 2 requires that such an application for group status must state which corporate body is to be the representative member (the corporate body that will pay plastic packaging tax on behalf of the other member(s) of the group).
13. Paragraph 3 sub-paragraph 3 defines the “specified time” as the beginning of the accounting period specified in the application for group status. This cannot be an accounting period prior to the accounting period in which the application is made.
14. Paragraph 4 sub-paragraph 1 sets out that the Commissioners can only refuse an application for group status if a body is not eligible to join the group, the nominated representative member is not eligible to be the representative member, or it is necessary for the protection of revenue.
15. Paragraph 4 sub-paragraph 2 provides that an application can only be declined for revenue protection reasons within 90 days of the date it is received by the Commissioners.

Applications to modify group treatment

16. Paragraph 5 sub-paragraph 1 sets out the types of changes that can be sought by the representative member to have effect from the “specified time” stated in particular applications. Namely, they may apply to add an eligible member to the group, change the identity of the representative member, remove a member from the group, or end the group arrangement.
17. Paragraph 5 sub-paragraph 2 defines the “specified time” as the beginning of the accounting period specified in the application to modify group treatment. This cannot be an accounting period prior to the accounting period in which the application is made.
18. Paragraph 6 sub-paragraph 1 sets out that the Commissioners can only refuse an application to add an eligible member to the group, or to change the representative member, if it is necessary to protect revenue.
19. Paragraph 6 sub-paragraph 2 sets out that the Commissioners can only refuse an application to remove a member from a group, or end a group arrangement altogether, if a member is not already being removed from a group by the Commissioners as set out in paragraph 8 of this Schedule, and the refusal is necessary to protect revenue.

Applications relating to group treatment

20. Paragraph 7 provides that applications regarding group treatment of companies under this Schedule can only be made by one of the corporate bodies concerned or by the person controlling them.

Termination of group treatment by the Commissioners

21. Paragraph 8 provides that the Commissioners may give notice to the group that a member will be removed from the group from the time specified in the notice if they appear not to be eligible to be a member, or it is necessary to protect revenue.
22. Paragraph 9 requires that if the representative member is being removed either by application from the group or by the Commissioners, where at least two corporate bodies remain and the application does not specify who the representative member should be, the Commissioners must by notice appoint one of the remaining members as the representative member.
23. Paragraph 10 sub-paragraph 1 sets out that a corporate body can be removed from a group if it is not eligible to be a member from a date before the date of the notice, but no earlier than when the corporate body lost its eligible status.
24. Paragraph 10 sub-paragraph 2 requires that the effective time for the removal of a corporate body from a group for revenue protection reasons must not be before the date the notice is issued to the representative member.
25. Paragraph 10 sub-paragraph 3 permits the appointment of a new representative member under paragraph 9 to be from a date before the notice is given.

Notifications relating to group treatment

26. Paragraph 11 sub-paragraph 1 requires a group member that is no longer eligible to belong to the group to notify the Commissioners.
27. Paragraph 11 sub-paragraph 2 requires the representative member of a group to give advance notice to the Commissioners if they will no longer have an established place of business in the UK.

Regulations about applications and notifications

28. Paragraph 12 sub-paragraph 1 gives the Commissioners the power by regulations to make provision in respect of when applications under this Schedule should be made (including when time limits may be extended), in what form they should be made and what information needs to be supplied as part of the application.
29. Paragraph 12 sub-paragraph 2 gives the Commissioners the power by regulations to make provision requiring applicants to inform the Commissioners if any information supplied is incorrect or changes.
30. Paragraph 12 sub-paragraph 3 extends the regulation making powers in sub-paragraph (1) to also cover the form, timing and content of notifications required to be given by the Commissioners.

Background note

31. This is clause 27 of 40 in establishing plastic packaging tax.
32. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging

which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.

33. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
34. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 28: Prevention of artificial separation of business activities: directions

Summary

1. Clauses 28 and 29 introduce measures to prevent the avoidance of plastic packaging tax by artificially separating business activities.

Details of the clause

2. Subsection 1 sets out the intention of Clauses 28 and 29 to prevent any artificial separation of business activities carried out by two or more persons in order to avoid plastic packaging tax.
3. Subsection 2 sets out the conditions which the Commissioners must be satisfied have all been fulfilled to make a direction regarding artificial separation of business activities. These are that a person is, or has been, manufacturing or importing chargeable plastic packaging components; those activities by that person form part of the activities of one or more other persons; whether a division is artificial (considered by reference to the definition in section 1122 of the Corporation Tax Act 2010) in assessing whether the persons concerned are connected, and if all these activities were considered as being carried out by a single person, that person would be liable to register for plastic packaging tax under Clause 14.
4. Subsection 3 specifies that subsection (4) applies where the Commissioners identify that an additional person should be added to a direction which has already been made.
5. Subsection 4 provides for a supplementary direction to be issued in the case described in subsection (3), adding the newly identified person to the earlier direction from the date relevant activities commenced, or the date from which the original direction required registration for plastic packaging tax, if this is later.
6. Subsection 5 sets out that if someone named in a direction or supplementary direction is already registered for the tax, that earlier liability to be registered ceases. This is effective from the date the single person named in the direction became liable to be registered, or the date of the direction itself, whichever is later.
7. Subsection 6 prescribes that a direction issued under this clause must be served on each person named in it.

Background note

8. This is clause 28 of 40 in establishing plastic packaging tax.
9. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
10. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
11. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 29: Prevention of artificial separation of business activities: effect of directions

Summary

1. This clause provides for the effects of directions issued under Clause 28 to prevent artificial separation of business activities for the purposes of avoiding plastic packaging tax.

Details of the clause

2. Subsection 1 sets out that where a direction is made under Clause 28:
 - The persons named in the direction are to be treated as if they were a single person who is liable to be registered for plastic packaging tax from the date of the direction, or a later date if specified;
 - The taxable person is to be registered under a name specified by those named in the direction within 14 days of the date of the direction or otherwise in a name set out in the direction;
 - All activities relating to chargeable plastic packaging components of everyone named in the direction are to be treated as those of the taxable person for plastic packaging tax purposes;
 - All those named in the direction are joint and severally liable for payment of, and compliance with, the tax;
 - The members named within the direction are to be treated as a partnership carrying on the business of a taxable person from the date specified in the direction or the date of the direction.
3. Subsection 2 applies subsection (3) where it appears to the Commissioners that a constituent member should no longer be regarded as joint and severally liable for payment of, and compliance with, the tax, and the Commissioners give notice of this.
4. Subsection 3 sets out that the constituent member in subsection (2) is not jointly and severally liable for payment of, and compliance with, plastic packaging tax, and ceases to be part of the partnership under subsection (1)(e) and (f) from the specified date in the notice.
5. Subsection 4 defines “constituent members” as those named in the direction and any supplementary directions, who are together to be treated as the taxable person.

Background note

6. This is clause 29 of 40 in establishing plastic packaging tax.
7. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
8. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
9. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 30: Death, incapacity or insolvency of person carrying on a business: regulations

Summary

1. This clause provides for regulations to be made for plastic packaging tax in relation to cases where a person carrying on a business dies, becomes incapacitated or becomes subject to an insolvency procedure.

Details of the clause

2. Subsection 1 gives the Commissioners the power by regulation to make provisions in respect of cases where a person carries on a business formerly undertaken by a person who has died, has become incapacitated or is subject to an insolvency procedure.
3. Subsection 2 prescribes the types of provisions for the purposes of plastic packaging tax that may be made by, or under, regulations relating to this clause. These may include requiring the person who has taken over a business to notify the Commissioners of this, including the reason for taking over the business. For a limited time, the person taking over the business may be treated as being the same person from whom they have taken it over (for the purposes of plastic packaging tax). Regulations may also include anything else the Commissioners see fit to ensure continuity in application of the tax.

Background note

4. This is clause 30 of 40 in establishing plastic packaging tax.
5. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
6. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
7. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 31: Transfer of business as a going concern: regulations

Summary

1. This clause provides for regulations to be made for plastic packaging tax in relation to the transfer of a business as a going concern.

Details of the clause

2. Subsection 1 gives the Commissioners the power by regulations in respect of cases where a business that is registered for plastic packaging tax is transferred as a going concern from one person to another.
3. Subsection 2 prescribes the types of provisions for the purposes of plastic packaging tax that may be made by, or under, regulations relating to this clause. These may include:
 - Requiring the person who has transferred the business to another person (the transferee) to notify the Commissioners of the transfer;
 - That the liabilities and duties on transfer become the transferee's liabilities and duties, to the extent specified;
 - The right of either person to a tax credit or repayment to be satisfied by the credit or repayment being paid to either person;
 - Requiring records from periods before the date of transfer to be retained by the transferee after the transfer as required by regulations under Clause 21; and
 - That regulations may also include anything else the Commissioners see fit to ensure continuity in application of the tax.
4. Subsection 3 prescribes that regulations under this clause may require an application for the transfer to be made in order for obligations and entitlements under subsection (2)(b) or (c) on liabilities and duties, and tax credits or repayments, to be effective.

Background note

5. This is clause 31 of 40 in establishing plastic packaging tax.
6. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of

£200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.

7. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
8. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 32: Isle of Man: import and export of chargeable plastic packaging components

Summary

1. This clause sets out the treatment of chargeable plastic packaging components imported from, or exported to, the Isle of Man.

Details of the clause

2. Subsection 1 specifies that if a chargeable plastic packaging component is imported into the UK from the Isle of Man and a charge to plastic packaging tax arises on the component under the law of the Isle of Man, then subsections (2) and (3) apply.
3. Subsection 2 provides for the treatment of imported chargeable plastic packaging components where a charge to plastic packaging tax arises under the law of the Isle of Man which is equal to, or greater than, the UK rate. In these circumstances, the components are not to be treated as imports into the UK for the purposes of Clause 2.
4. Subsection 3 provides for the treatment of imported chargeable plastic packaging components where a charge to plastic packaging tax arises under the law of the Isle of Man which is lower than the UK rate. In these circumstances, the tax charged on the components in the UK is reduced by an amount equal to the tax charged in the Isle of Man.
5. Subsection 4 defines “the UK rate” in subsections (2) and (3) as the rate of plastic packaging tax that would otherwise be chargeable in the UK.
6. Subsection 5 provides that exports from the UK to the Isle of Man of chargeable plastic packaging components are not to be treated as exports for the purposes of provisions made by or under Clauses 10 and 12.

Background note

7. This is clause 32 of 40 in establishing plastic packaging tax.
8. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
9. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.

10. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 33: Fraudulent evasion

Summary

1. This clause provides a criminal offence for knowingly being involved in the fraudulent evasion of plastic packaging tax.

Details of the clause

2. Subsection 1 specifies that a person commits an offence if they knowingly are involved in, or take action with a view to, the fraudulent evasion of plastic packaging tax either by them or another person.
3. Subsection 2 prescribes that 'evasion', for the purposes of this clause, also includes when tax credits or repayments are fraudulently claimed in respect of plastic packaging tax.
4. Subsection 3 provides the maximum levels of punishment for a person convicted of this offence. The offence may be tried summarily or on indictment. Where it is tried summarily, the maximum fine will depend on the amount of tax that was intended to have been evaded.
5. Subsections 4 and 5 set out that in calculating penalties under subsection (3), the amount of plastic packaging tax evaded should also include any tax credits or repayments claimed without entitlement and should not take into account any tax credits or repayments actually due.
6. Subsection 6 prescribes that until such time as paragraph 24(2) of schedule 22 to the Sentencing Act 2020 commences, the imprisonment term for England and Wales detailed in subsection (3)(a)(i) should be read as 6 months, rather than 12 months. Once that provision is commenced, Magistrates' Courts in England and Wales will have the power to impose the maximum term of imprisonment contemplated by subsection 3(a)(i) of this clause.

Background note

7. This is clause 33 of 40 in establishing plastic packaging tax.
8. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
9. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or

incineration.

10. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 34: Misstatements

Summary

1. This clause provides a criminal offence for supplying false information and documents, with an intention to deceive, in connection with plastic packaging tax.

Details of the clause

2. Subsection 1 specifies that a person commits an offence if they produce or provide, or cause to be produced or provided, a document containing false information in connection with plastic packaging tax with the intention to deceive.
3. Subsection 2 specifies that a person commits an offence if they deliberately or recklessly provide false information in connection with plastic packaging tax.
4. Subsection 3 provides the maximum levels of punishment for a person convicted of this offence. The offence may be tried summarily or on indictment.
5. Subsections 4 – 6 set the maximum fine for this offence. On summary conviction, the maximum fine is set at the larger sum of £20,000 or the statutory maximum, and 3 times the amount of plastic packaging tax under-declared in the return. Under-declared amounts include either a reduction in the tax payable (a person's "gross liability"), an inflation of tax credits and repayments due, or a combination of both. A person's gross liability for plastic packaging tax is calculated before any tax credit entitlement or repayments due are deducted.

Background note

6. This is clause 34 of 40 in establishing plastic packaging tax.
7. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
8. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
9. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 35: Conduct involving evasions or misstatements

Summary

1. This clause provides a criminal offence for conduct involving evasions or misstatements in respect of obligations under, and liability for, plastic packaging tax whether or not the specifics of those offences are known.

Details of the clause

2. Subsection 1 specifies that a person commits an offence if their conduct must have involved committing one or more offences under Clauses 33 or 34.
3. Subsection 2 prescribes that it is immaterial, for the purposes of any proceedings for an offence under this clause, whether the details of any offences that must have been committed are known. For example, where an act must have involved the commission of evasions or misstatements, but documents which would have evidenced the particulars of the commissioning have been lost, the lack of such documentation does not matter for the purpose of any proceedings.
4. Subsection 3 provides the maximum levels of punishment for a person convicted of this offence. The offence may be tried summarily or on indictment.
5. Subsections 4 – 6 set the maximum fine for this offence. On summary conviction, the maximum fine is set at the larger sum of £20,000 or the statutory maximum, and 3 times the amount of plastic packaging tax evaded or intended to be evaded. The amount of tax evaded, or intended to be evaded, includes any amounts of unentitled credit or repayment obtained, or intended to be obtained. However, any credits or repayments that may have been due to a person that is convicted under this offence do not need to be taken into consideration when determining the amount of tax that were, or intended to be, evaded for the purposes of calculating the maximum fine.

Background note

6. This is clause 35 of 40 in establishing plastic packaging tax.
7. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
8. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or

incineration.

9. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 36 and Schedule 5: Penalty for contravening relevant requirements

Summary

1. This clause and schedule provide the penalties for contravening specified obligations or requirements in respect of plastic packaging tax.

Details of the clause

2. Subsection 1 provides for a fixed penalty of £500 where a person fails to comply with a relevant requirement, as defined in subsection (7), and a daily penalty of £40 for each day thereafter where a person continues to fail to comply.
3. Subsection 2 prescribes that where a person is liable to a daily penalty for a continued failure to comply with a relevant requirement, that person will not be liable to another fixed penalty for the same failure.
4. Subsection 3 sets out that a person is not liable to a penalty under this clause for an act or omission if the person has been convicted of an offence or is liable to a penalty under Part 1 of Schedule 6, for that same failure or action.
5. Subsection 4 prescribes that a person is not liable to a penalty under this clause if the Commissioners are satisfied there is a reasonable excuse for the failure. Reasonable excuse can also be relied upon on appeal to the first and upper tier tribunals, and no penalty is payable if either tribunal is satisfied there is a reasonable excuse for the failure.
6. Subsection 5 sets out a number of situations which are not acceptable as reasonable excuses under subsection (4). These are:
 - Lack of funds, unless due to events outside the control of the person concerned;
 - Relying on another person to do anything, unless reasonable care was taken to avoid the failure to comply with a relevant requirement; and
 - If the circumstances giving rise to a reasonable excuse have ended, the excuse will remain valid if action was taken to correct the failure in a reasonable time after this change.
7. Subsection 6 prescribes that a penalty under this clause can be reduced (up to nil) by the Commissioners, or on appeal, an appeal tribunal. A subsequent appeal may cancel the whole or any part of the Commissioners' reduction.
8. Subsection 7 defines "relevant requirements" for the purposes of this clause. These are obligations or requirements set out in: Clause 17 variations and correction of the

register, Clause 19 payment, collection and recovery, Clause 21 records, Clause 24 statements, Clause 25 tax representatives, Clause 30 carrying on of a business after a death, incapacity or insolvency, Clause 31 transfer of a business as a going concern and Schedule 4 groups of companies. In effect, this measure imposes penalties for failing to meet the requirements of the tax which are not covered by specific penalties elsewhere in the legislation.

9. Subsection 8 provides powers to the Treasury to make amendments by regulations to subsection (1) to change the amounts of the penalties due to inflation.
10. Subsection 9 provides powers to the Commissioners to make amendments by regulations to subsection (7) as to what falls under a “relevant requirement” in respect of plastic packaging tax.
11. Subsection 10 introduces Schedule 5, which sets out provisions for the assessment of penalties under this clause.

Detail of the Schedule

Interpretation

12. Paragraph 1 specifies that references to “penalty” in this schedule are to a penalty under Clause 36.

Assessment etc of penalty

13. Paragraph 2 gives the Commissioners the power to assess a penalty and requires them to notify the amount to the person concerned.
14. Paragraph 3 allows the Commissioners to make a supplementary assessment of a penalty where an earlier penalty is found to be insufficient, and requires them to notify the person concerned of this new amount.

Further provision about assessments under paragraphs 2 and 3

15. Paragraph 4 provides for the amount of a penalty to be collected as if it were plastic packaging tax due, unless the assessment has been withdrawn or reduced (in which case only the remaining amount due after reduction can be collected as if it were tax).
16. Paragraph 5 provides that if an act or omission which caused the penalty to be due has ended before the assessment of the penalty is made, this has no impact on the powers to assess the penalty.
17. Paragraph 6 allows a penalty to be combined with an assessment for plastic packaging tax made under Schedule 1 for the same period as the penalty, and requires the notice of the combined assessment to identify the amount of penalty which forms part of that assessment.

Assessment etc of daily penalties

18. Paragraph 7 requires a notice of a penalty assessment to include a date up to which any daily penalty under Clause 36(1)(b) is calculated. This date cannot be later than the date of the notice. Further penalties accruing after this date may be notified by

further assessments.

19. Paragraph 8 allows the Commissioners to notify a future date for resolution of the issue causing a penalty in an assessment, and, if the issue is resolved by that date, it is treated (when calculating any further liability) as if resolved by the date specified in the assessment under paragraph 7.

Time limits for assessments

20. Paragraph 9 provides that an assessment of a penalty must be made within 4 years of the act or omission being penalised in most circumstances. If the act or omission is deliberate (including a deliberate inaccuracy in a document given to HMRC) or is a failure to register under Clause 14, or to keep registration details up to date as required by regulations under Clause 17, a penalty can be assessed up to 20 years after the event in question. These provisions for the 20 year period also apply to the actions of another person acting on behalf of the taxpayer causing a loss of plastic packaging tax.

Notifications to a person's representative

21. Paragraph 10 provides that an assessment of a penalty under this schedule given to a representative of a person is to be treated as if it were given to the person themselves. "Representative" here means any of that person's personal representatives, a trustee in bankruptcy, interim or permanent trustee or liquidator, any person holding office as receiver in relation to that person or any of that person's property, or any other person acting in a representative capacity in relation to that person (including under Clause 25).

Service of notices

22. Paragraph 11 permits a notice under this schedule to be given by posting it to the last known address of the person concerned.

Background note

23. This is clause 36 of 40 in establishing plastic packaging tax.
24. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
25. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
26. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email:indirecttaxdesign.team@hmrc.gov.uk).

Clause 37: Criminal proceedings

Summary

1. This clause provides for criminal proceedings for the purposes of plastic packaging tax.

Details of the clause

2. This clause provides that sections 145 to 155 of the Customs and Excise Management Act 1979 apply in relation to plastic packaging tax offences as they apply to offences under the customs and excise Acts. These are the general provisions on criminal legal proceedings applied across much of the indirect tax and duty system.

Background note

3. This is clause 37 of 40 in establishing plastic packaging tax.
4. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
5. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
6. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 38 and Schedule 6: Minor and consequential amendments

Summary

1. This clause and schedule set out amendments necessary to be made to other legislation in respect of plastic packaging tax. These amendments provide a range of administration and enforcement provisions for plastic packaging tax.

Detail of the clause

2. This clause introduces Schedule 6 which sets out minor and consequential amendments to other areas of legislation so those provisions apply to plastic packaging tax.

Detail of the Schedule

Part 1 - Penalties

Failure to notify etc.

3. Paragraph 1 adds plastic packaging tax to the list of taxes for which Schedule 41 to the Finance Act 2008 applies. This provides for a penalty to apply to persons who fail to comply with the obligation to give notice of their liability to be registered under Clause 15.

Failure to comply with requirements relating to returns

4. Paragraphs 2 and 3 add plastic packaging tax to the list of taxes for which Schedule 55 to Finance Act 2009 applies. This provides for a penalty to apply to persons who fail to submit returns. The amendments made by Schedule 10 to Finance (No. 3) Act 2010 to Schedule 55 will come into force in respect of plastic packaging tax when the tax commences.

Failure to make payment on time

5. Paragraph 4 and 5 add plastic packaging tax to the list of taxes for which Schedule 56 to Finance Act 2009 applies. This provides for a penalty to apply to persons who fail to make payments on time. The amendments made by Schedule 11 to Finance (No. 3) Act 2010 to Schedule 56 will come into force in respect of plastic packaging tax when the tax commences.

Errors in documents

6. Paragraph 6 provides for an amendment to Schedule 24 to Finance Act 2007 which

inserts plastic packaging tax into the table in paragraph 1. This will allow a penalty to apply to persons who submit inaccurate returns.

Failure to disclose tax avoidance schemes

7. Paragraph 7 adds plastic packaging tax to the list of taxes under which Schedule 17 to Finance (No. 2) Act 2017 (Disclosure of tax avoidance schemes: indirect taxes) applies. This provides for penalties to apply for failure to comply with the obligations to disclose tax avoidance schemes.

Modifications

8. Paragraph 8 sets out the amendments to Schedule 41 to the Finance Act 2008 and Schedules 55 and 56 to the Finance Act 2009 which apply penalties for the failure to notify, failure to make returns and failure to make payments, so as to remove the obligation to raise these penalties in all circumstances.

Part 2 - Miscellaneous

Provisional collection of plastic packaging tax

9. Paragraph 9 adds plastic packaging tax to the list of taxes to which the Provisional Collection of Taxes Act 1968 applies.

Isle of Man

10. Paragraph 10 provides for an amendment to the Isle of Man Act 1979 to enact the Isle of Man powers in Clause 32.

HMRC powers to obtain information etc.

11. Paragraph 11 provides for an amendment to Schedule 36 to Finance Act 2008 (powers to obtain information etc.). This will allow information to be requested from certain persons in respect of plastic packaging tax.

Interest

12. Paragraph 12 provides for an amendment to Schedule 53 to Finance Act 2009 (late payment interest). The insertion sets the date from which interest will be calculated where a person has failed to register.

Serial tax avoidance

13. Paragraph 13 provides for an amendment to Schedule 18 to Finance Act 2016 by inserting “plastic packaging tax” after “landfill tax” in paragraph 4(2). This will apply penalties for serial tax avoidance in respect of plastic packaging tax.

Background note

14. This is clause 38 of 40 in establishing plastic packaging tax.
15. Plastic packaging tax will come into effect from April 2022. Announced at Budget

2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.

16. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
17. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 39: Regulations

Summary

1. This clause provides for regulations to be made in respect of plastic packaging tax and sets out general provisions about the regulations.

Details of the clause

2. Subsection 1 sets out that regulations made under the powers in this Part may make different provision for different purposes and that these can be incidental, consequential, supplementary or transitional in nature.
3. Subsection 2 provides powers to make provision by reference to things specified in a notice that is published in line with regulations and not withdrawn by a subsequent notice.
4. Subsection 3 provides that regulations made under the powers in this Part are to be made by statutory instrument.
5. Subsections 4 and 5 specify that statutory instruments made under the powers listed in the following clauses are subject to the made affirmative procedures in the House of Commons:
 - Clause 7(4) - the meaning of “packaging component”;
 - Clause 8(8) – the meaning of “plastic” and “recycled plastic”;
 - Clause 11 – exempt plastic packaging components;
 - Clause 36(8) – amounts relating to the general regulatory penalty.
6. Subsection 6 provides that any other statutory instrument made under this Part is subject to the negative procedure in the House of Commons.
7. Subsection 7 sets out that subsection (6) does not apply to a statutory instrument containing only regulations under Clause 40 (commencement of this Part).
8. Subsection 8 sets out that plastic packaging tax statutory instruments subject to the made affirmative procedure must be laid before the House of Commons after being made, and cease to have effect at the end of 28 days beginning with the day the instrument is made, unless the instrument is approved by a resolution of the House of Commons within that period. The 28 days must be sitting days, defined in subsection (11).
9. Subsection 9 provides that if regulations cease to have effect as a result of subsection (8) (i.e. are not approved by a resolution of the House of Commons within 28 sitting days), this does not affect anything previously done under those regulations or prevent the making of new regulations.

10. Subsection 10 sets out that plastic packaging tax provisions which can be made in regulations subject to the negative procedure in the House of Commons may also be made by regulations subject to the made affirmative procedure.
11. Subsection 11 defines “sitting day” as a day on which the House of Commons is sitting, and is only considered a day if the House begins to sit on that day

Background note

12. This is clause 39 of 40 in establishing plastic packaging tax
13. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
14. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
15. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).

Clause 40: Commencement etc

Summary

1. This clause provides for regulations to be made for plastic packaging tax in relation to the commencement of the tax.

Details of the clause

2. Subsection 1 gives the Treasury the power by regulations to appoint the commencement date of the provisions in this Part in relation to packaging components that are manufactured in the UK, or imported into the UK, on or after 1 April 2022.
3. Subsection 2 provides that regulations made under this clause may specify different commencement dates for different purposes. This can include commencing some provisions of the legislation at different times from others.

Background note

4. This is clause 40 of 40 in establishing plastic packaging tax.
5. Plastic packaging tax will come into effect from April 2022. Announced at Budget 2018, the tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and there will be a limited number of exemptions.
6. The tax will encourage the use of recycled plastic instead of new plastic within packaging. This greater demand for recycled plastic will in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
7. If you have any questions about the change, or comments on the legislation please contact HMRC, Indirect Tax Directorate, Excise and Environmental Policy Design Team (email: indirecttaxdesign.team@hmrc.gov.uk).