Soft drinks industry levy

1 Soft drinks industry levy: sugar content condition

(1) Part 2 of FA 2017 (soft drinks industry levy) is amended as follows.

(2) In section 29 (sugar content condition)—

(a) in subsection (1)(b) for "5" substitute "4.5";

(b) after subsection (4) insert—

"(4A) The Commissioners may by regulations make provision about the method for ascertaining whether a packaged soft drink meets the sugar content condition in cases where the quantity of the drink is expressed by weight."

(3) In section 39 (tax credits), in subsection (1)(c)(ii) for "5" substitute "4.5".

(4) The amendments made by this section have effect in relation to chargeable events occurring on or after 1 January 2028.

(5) For the purpose of determining whether an event occurring on or after that date in relation to a soft drink is a chargeable event, those amendments are to be treated as having come into force immediately before the drink was packaged in or imported into the UK.

2 Soft drinks industry levy: milk and plant-based milk substitutes etc.

(1) Part 2 of FA 2017 (soft drinks industry levy) is amended as follows.

(2) In section 30 (exempt soft drinks)—

(a) in subsection (1), omit paragraphs (a) and (b);

(b) omit subsections (2) and (3).

(3) In section 26 ("soft drink" and "package") after subsection (1) insert—

"(1A) The Commissioners may by regulations make provision about what drinkable liquids are, or are not, to be treated for the purposes of this Part as beverages."

(4) In section 29 (sugar content condition)—

(a) after subsection (1) insert—

"(1A) For the purposes of determining the grams of sugars contained in 100 millilitres of prepared drink, the quantity of any lactose is to be disregarded.

(1B) The Commissioners may by regulations provide that, in specified circumstances, the quantity of lactose contained in a soft drink is to be treated for any of the purposes of this Part as being the quantity determined by the Commissioners in accordance with the regulations.";

(b) for subsection (3) substitute—

“(3) But a packaged soft drink does not contain “added sugar ingredients” if—

(a) it contains “added sugar ingredients” only by reason of containing milk, fruit juice or vegetable juice (or any combination of them), or

(b) it—

(i) contains a single plant-based milk substitute, and

(ii) contains “added sugar ingredients” only by reason of containing that plant-based milk substitute together with any combination of fruit juice or vegetable juice.”;

(c) in subsection (4), after “Part as” insert “lactose,”;

(d) after subsection (5) insert—

“(6) In this section—

(a) “plant-based milk substitute” means a drinkable liquid which—

(i) is derived from a plant,

(ii) does not contain any ingredients falling within subsection (2)(a) or (b) other than a single ingredient from that plant, and

(iv) meets such other conditions as may be specified;

(b) “plant” includes legumes, cereals, nuts and seeds.”

(5) In section 36 (levy rates), after subsection (2) insert—

“(3) For the purposes of determining the grams of sugars contained in 100 millilitres of prepared drink, the quantity of any lactose is to be disregarded.”

(6) In section 39 (tax credits), after subsection (1) insert—

“(1A) For the purposes of determining the grams of sugars contained in 100 millilitres of prepared drink, the quantity of any lactose is to be disregarded.”

(7) In section 59 (interpretation), in subsection (2), after “sections” insert “29,”.

(8) In Schedule 10 (soft drinks industry levy: appeals and reviews), after paragraph 1(k) insert—

“(ka) the determination of a quantity under regulations under section 29(1B) (determination of quantity to be treated as quantity of lactose);”.

(9) The amendments made by this section have effect in relation to chargeable events occurring on or after 1 January 2028.

(10) For the purpose of determining whether an event occurring on or after that date in relation to a soft drink is a chargeable event, those amendments are

to be treated as having come into force immediately before the drink was packaged in or imported into the UK.

3 Soft drinks industry levy: amendments consequential on section 62A etc

(1) The Soft Drinks Industry Levy Regulations 2018 (S.I. 2018/41) are amended as follows.

(2) Before regulation 5 insert—

"Soft drinks: beverages

4A.—(1) Milk-based drinks are to be treated for the purposes of Part 2 as beverages, to the extent they would not otherwise be.

(2) Drinking yoghurts are to be treated for the purposes of Part 2 as not being beverages, to the extent they would otherwise be.

(3) In this regulation—

(a) "milk-based drink" means a drinkable liquid that contains milk and is not a drinking yoghurt,

(b) "drinking yoghurt" means a drinkable liquid that—

(i) contains at least 90 millilitres of fermented milk per 100 millilitres of prepared drink, and

(ii) does not contain any other liquids added for the purposes of making the liquid more drinkable, and

(c) "fermented milk" has the same meaning as in regulation 7(6) (and includes fermented milk that is not milk for the purposes of section 29 (see regulation 7(7)).

Lactose quantity: circumstances for determination

4B.—(1) Paragraph (2) applies where a determination made by the Commissioners in accordance with this regulation in relation to a soft drink and a liable person has effect.

(2) For the purposes of determining the amount of the charge to the soft drinks industry levy which arises on a chargeable event and for which the person is liable, the quantity of lactose contained in the soft drink is to be treated as being the quantity so determined.

(3) The Commissioners may make a determination where—

(a) the Commissioners have requested evidence as to the quantity of lactose contained in the soft drink from the liable person, and

(b) the liable person has not provided sufficient evidence to satisfy the Commissioners of that quantity.

(4) The quantity to be determined by the Commissioners is the quantity that the Commissioners consider to be reasonable in all the circumstances.

(5) Where the Commissioners make a determination in accordance with this regulation they must give notice of the quantity determined as soon as practicable to the liable person.

(6) The notice must also state—

(a) how the quantity was determined,

(b) the date from which the determination has effect, and

(c) that Schedule 10 (appeals and reviews) applies to the determination.

(7) A determination made under this regulation ceases to have effect if the Commissioners subsequently give notice of the determination's withdrawal to the liable person.

(8) The notice of withdrawal must also state the date from which the determination ceases to have effect (which may be a date before the notice was given).

Sugar content condition: lactose

4C.—(1) The following contents of a drink are not to be treated as lactose for the purposes of Part 2—

(a) lactose added to the drink as an ingredient;

(b) where lactase has been added to the drink, any lactose in the drink that has been or will be converted to glucose and galactose by the lactase;

(c) lactose in the solid constituents of whey in their preserved forms, to the extent those constituents of whey are not recombined in the drink;

(d) lactose in the dried or concentrated form of whey, to the extent that the whey is not reconstituted in the drink.

(2) In paragraph (1)—

(a) "whey" means whey within the meaning of regulation 7(10) that is milk for the purposes of section 29 (see regulation 7(11));

(b) "recombined" and "reconstituted", in relation to whey, have the same meanings as in regulation 7(12) and (13)."

(3) In regulation 7, in the heading, for the words from "and exempt" to the end substitute ": milk".

(4) In regulation 8—

(a) for the heading substitute "Sugar content condition: plant-based milk substitutes";

(b) omit paragraph (1);

(c) in paragraph (2)—

(i) in the opening words, for "30(3)(b) are that the soft drink" substitute "29(6)(a) are that the drinkable liquid";

(ii) omit sub-paragraph (a);

(iii) at the end of paragraph (b) insert "or, where the drinkable liquid contains added flavouring, would be so capable ignoring that flavouring".

(5) The amendments made by this section have effect in relation to chargeable events occurring on or after 1 January 2028.

(6) For the purpose of determining whether an event occurring on or after that date in relation to a soft drink is a chargeable event, those amendments are to be treated as having come into force immediately before the drink was packaged in or imported into the UK.