Plastic packaging tax

Indirect Tax

29 October 2020

From 1 April 2022, the plastic packaging tax will apply to plastic packaging manufactured in or imported into the UK containing less than 30% recycled plastic. The CIOT has responded to HMRC's latest consultation questionnaire (tinyurl.com/r6uc4tz) as it had made further refinements to the scheme.

The CIOT welcomed the following proposed changes:

- A clear de minimis threshold (ten tonnes in a rolling 12 month period) allows very small operators to remain free from the administrative and financial burden of the tax.(Some monitoring will be required for businesses close to the threshold.)
- Plastic packaging used in transporting imported goods will be initially excluded from a tax liability. (This will remain under HMRC review.)
- Joint and several liability will only apply in certain limited situations and businesses conducting sufficient due diligence will not be jointly liable for the tax. (However, we expressed some cautiousness about the introduction of the tax and would like legislation and guidance to provide clarity for taxpayers so that they can complete sufficient due diligence.)

We would like to see:

- the export evidence requirements and export time limits for the tax aligned as far as possible with the existing rules for VAT exports to reduce administration and opportunity for errors;
- clarification on the definition of an 'overseas customer', for example by stating that an overseas customer must not have any establishment in the UK;
- clarification for chain transactions where a UK supplier may directly export the product to an overseas business but its invoice is raised to a UK customer in a chain transaction scenario, as UK exporters with more complex supply chains

could become less competitive where a tax credit cannot be achieved on an export;
- clarification on what happens where the business is subject to a transfer of a going concern; and
- a review of the proposal that businesses must remain registered for 12 months after the date that they fall under the de minimis threshold.

Our concerns included the following:

- It is possible that double taxation may apply for damaged and replacement packaging, particularly where the taxpayer is not at fault and not able to sell the damaged product. Taxpayers who can only access an imported product after it has entered into free circulation may be at a disadvantage.
- The grouping conditions only allow corporate bodies to group, although VAT grouping was changed by FA 2018 Sch 18 to extend grouping to qualifying individuals and partnerships.

Our full response can be found at www.tax.org.uk/ref657.