Plastic packaging tax

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The new environmental tax, the plastic packaging tax, comes into effect from 1 April 2022 and aims to change behaviour by encouraging the creation and use of plastic packaging containing a minimum of 30% of recycled content. Businesses must register for the plastic packaging tax if they have manufactured or imported ten or more tonnes of finished plastic packaging products in the past 12 months, or if they will breach this threshold in the next 30 days.

Members of the CIOT's Climate Change Working Group and Indirect Taxes Committee recently attended a meeting with HMRC to discuss scenarios raised by members while reviewing and preparing for the tax to come into effect.

Guidance

We discussed what constitutes sufficient evidence and highlighted the difficulties that would arise if the evidence held is deemed insufficient by HMRC: the default position is that the product is taxable and a tax assessment may apply. A common misunderstanding may be that the product specification documentation and invoice needed for the goods to be imported into the UK should suffice, though the plastic packaging tax rules require the source of the recycled content to be proven (tinyurl.com/4uahh49n); this can be particularly difficult where the UK importer is supplied as part of an overseas chain transaction, with components added in several steps of the chain, though the UK importer may only be contracted with the final person who exports to the UK. HMRC will consider whether the guidance needs further information about proving the source in more complex scenarios.

HMRC anticipate that they may review due diligence policies or procedures, though expect this to be limited to the largest businesses that have customer relationship managers.

Invoicing

Due to the impact of the plastic packaging tax, there is a statutory right to increase prices in FA 2021 s 70 (tinyurl.com/27nar3xy) and a question was raised as to whether there was an impact on the VAT liability when charging additional amounts based on the plastic packaging tax incurred.

HMRC confirmed that a recharge based on the value of the plastic packaging tax is additional consideration for the product rather than recharging of the tax itself, hence the VAT is calculated on the increased price basis where that underlying supply is subject to VAT.

Sufficient evidence

It was anticipated that even compliant and prudent taxpayers may still experience data gaps in their administration records in the early stages. It was raised whether, in the absence of full details, estimation can be used. HMRC confirmed that the data must be obtained and that estimation agreements for the absence of evidence would not apply.

Next steps

Although HMRC have been receiving a lot of plastic packaging tax queries, they noted that most of the answers are published in the guidance. The CIOT may route questions to HMRC if they fall outside of what is publicly available, as HMRC are still interested in hearing about situations that are not already covered.