

## SCHEDULES

### SCHEDULE 8

#### SOFT DRINKS INDUSTRY LEVY: RECOVERY AND OVERPAYMENTS

##### PART 2

##### OVERPAYMENTS

###### *Repayments of overpaid levy*

- 8 (1) This paragraph applies where a person (P) has paid an amount to the Commissioners by way of soft drinks industry levy which was not levy due.
- (2) The Commissioners are liable, on the making of a claim by P, to repay the amount.
- (3) The Commissioners may by regulations make provision about—
- (a) the form and manner of a claim;
  - (b) the information required in support of a claim.
- (4) Except as provided by this paragraph, the Commissioners are not liable to repay any amount paid by way of soft drinks industry levy by reason of the fact that it was not levy due.
- (5) This paragraph is subject to paragraph 9.

###### *Supplementary provisions about repayment etc.*

- 9 (1) The Commissioners are not liable, on a claim for a repayment of soft drinks industry levy, to repay any amount paid more than 4 years before the making of the claim.
- (2) It is a defence to any claim for repayment of an amount of soft drinks industry levy that the repayment of that amount would unjustly enrich the claimant.
- 10 (1) This paragraph applies where—
- (a) an amount has been paid by way of soft drinks industry levy which (apart from paragraph 9(2)) would fall to be repaid to a person (P), and
  - (b) the whole or a part of the cost of the payment of that amount to the Commissioners has, for practical purposes, been borne by a person other than P.
- (2) Where loss or damage has been, or may be, incurred by P as a result of mistaken assumptions made in P's case about the operation of any provision relating to soft drinks industry levy, that loss or damage is to be disregarded, except to the extent of the quantified amount, in the making of a relevant determination.

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- (3) In sub-paragraph (2) “the quantified amount” means the amount (if any) which is shown by P to constitute the amount that would appropriately compensate P for loss or damage shown by P to have resulted from the making of the mistaken assumptions.
- (4) A “relevant determination” means a determination for the purposes of paragraph 9(2) as to—
  - (a) whether or to what extent the repayment of an amount would enrich P, or
  - (b) whether or to what extent an enrichment of P would be unjust.
- (5) The reference in sub-paragraph (2) to provision relating to soft drinks industry levy is a reference to any provision made by or under any enactment which relates to the levy or to any matter connected with it.

#### *Reimbursement arrangements*

- 11 (1) The Commissioners may by regulations make provision for reimbursement arrangements to be disregarded for the purposes of paragraph 9(2) except where the arrangements—
- (a) contain such provision as may be required by the regulations, and
  - (b) are supported by such undertakings to comply with the arrangements as may be required by the regulations to be given to the Commissioners.
- (2) In this paragraph “reimbursement arrangements” means arrangements for the purposes of a claim to a repayment of soft drinks industry levy which—
- (a) are made by a person for the purpose of securing that the person is not unjustly enriched by the repayment of any amount in pursuance of the claim, and
  - (b) provide for the reimbursement of a person who has for practical purposes borne the whole or any part of the cost of the original payment of that amount to the Commissioners.
- (3) Regulations under this paragraph may include provision requiring reimbursement arrangements to contain provision—
- (a) requiring a reimbursement for which the arrangements provide to be made within a specified period after the repayment to which it relates;
  - (b) for the repayment of amounts to the Commissioners where those amounts are not reimbursed in accordance with the arrangements;
  - (c) requiring interest paid by the Commissioners on any amount repaid by them to be treated in the same way as that amount for the purposes of any requirement under the arrangements to reimburse or repay the Commissioners;
  - (d) requiring records of a specified description relating to the arrangements to be kept and produced to the Commissioners, or to an officer of Revenue and Customs;
  - (e) imposing obligations on specified persons for the purposes of provision made under paragraphs (a) to (d).
- (4) Regulations under this paragraph may—
- (a) make provision about the form, manner and timing of undertakings given to the Commissioners in accordance with the regulations, and
  - (b) provide for those matters to be determined by the Commissioners in accordance with the regulations.

### *Assessment for excessive repayment*

- 12 (1) Sub-paragraph (3) applies where—
- (a) an amount has been paid at any time to a person by way of a repayment of soft drinks industry levy, and
  - (b) the amount paid exceeded the amount which the Commissioners were liable at that time to repay to that person.
- (2) Sub-paragraph (3) also applies where a person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by regulations under paragraph 11(3)(b), (c) or (e).
- (3) The Commissioners may—
- (a) to the best of their judgment, assess the amount of the excess (in a case within sub-paragraph (1)) or the amount due (in a case within sub-paragraph (2)), and
  - (b) notify the amount to the person.
- (4) Subject to sub-paragraph (5), where—
- (a) an assessment is made on any person under this paragraph in respect of a repayment of soft drinks industry levy, and
  - (b) the Commissioners have power under Part 1 of this Schedule to make an assessment on that person as to an amount of the levy due from that person, the assessments may be combined and notified to the person as one assessment.
- (5) A notice of a combined assessment under sub-paragraph (4) must separately identify the amount being assessed in respect of repayments of soft drinks industry levy.

### *Supplementary assessments*

- 13 (1) Sub-paragraph (2) applies where—
- (a) an assessment has been notified to a person under paragraph 12, and
  - (b) it appears to the Commissioners that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.
- (2) The Commissioners may—
- (a) on or before the last day on which the assessment under paragraph 12 could have been made, make a supplementary assessment of the amount of soft drinks industry levy due from the person, and
  - (b) notify the amount to that person.

### *Further provision about assessments under paragraphs 12 and 13*

- 14 (1) Where an amount has been assessed and notified to a person under paragraph 12 or 13, it is recoverable on the basis that it is an amount of soft drinks industry levy due from that person.
- (2) But sub-paragraph (1) does not have effect if, or to the extent that, the assessment has been withdrawn or reduced.

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*Time limits for assessments*

- 15      An assessment under paragraph 12 or 13 may not be made more than 2 years after evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.