

## SCHEDULES

### SCHEDULE 11

#### PLASTIC PACKAGING TAX: REVIEWS AND APPEALS

#### PART 3

#### APPEALS

##### *“Appeal tribunal”*

- 9 In this Schedule “appeal tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

##### *Bringing of appeals*

- 10 (1) An appeal under paragraph 1 is to be made to the appeal tribunal before—
- (a) the end of the period of 30 days beginning with—
    - (i) in a case where P is the appellant, the date of the document notifying P of the decision to which the appeal relates, or
    - (ii) in a case where a person other than P is the appellant, the day on which that person becomes aware of the decision, or
  - (b) if later, the end of the period for requiring a review (within the meaning of paragraph 6).
- (2) But that is subject to sub-paragraphs (3) to (5).
- (3) In a case where HMRC are required to undertake a review under paragraph 5—
- (a) an appeal may not be made until the conclusion date, and
  - (b) any appeal is to be made within the period of 30 days beginning with that date.
- (4) In a case where HMRC are requested to undertake a review under paragraph 7—
- (a) an appeal may not be made to the appeal tribunal—
    - (i) unless HMRC have notified P, or the other person, as to whether or not a review will be undertaken, and
    - (ii) if HMRC have notified P, or the other person, that a review will be undertaken, until the conclusion date;
  - (b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
  - (c) if HMRC have notified P, or the other person, that a review will not be undertaken, an appeal may be made only if the appeal tribunal gives permission to do so.

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*Status: This is the original version (as it was originally enacted).*

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- (5) In a case where paragraph 8(8) applies, an appeal may be made at any time from the end of the period specified in paragraph 8(6) to the date 30 days after the conclusion date.
- (6) An appeal may be made after the end of any period specified in this paragraph if the appeal tribunal gives permission to do so.
- (7) In this paragraph, “conclusion date” means the date of the document notifying the conclusions of the review.

*Further provision about appeals*

- 11 (1) An appeal relating to a decision that an amount is due from a person may not be considered by the appeal tribunal unless the amount which HMRC have determined to be due has been paid or deposited with HMRC.
- (2) But sub-paragraph (1) does not apply if—
  - (a) HMRC are satisfied or, if HMRC are not satisfied but the appeal tribunal have decided, on the application of the appellant, that the requirement to pay or deposit the amount would cause the appellant to suffer hardship, and
  - (b) the appellant has paid or deposited such other amount (if any) by way of security as HMRC or, as the case may be, the appeal tribunal consider appropriate.
- (3) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the appeal tribunal as to the issue of hardship is final.

*Determinations on appeal*

- 12 (1) Where, on an appeal under paragraph 1—
  - (a) it is found that an assessment of the appellant is an assessment for an amount that is less than it ought to have been, and
  - (b) the appeal tribunal give a direction specifying the correct amount,
 the assessment has effect as an assessment of the amount specified in the direction and (without prejudice to any power under this Schedule to reduce the amount of interest payable on the amount of an assessment) as if it were an assessment notified to the appellant in that amount at the same time as the original assessment.
- (2) On an appeal under paragraph 1, the powers of the appeal tribunal in relation to any decision of the Commissioners includes a power, where the tribunal allow an appeal on the ground that the Commissioners could not reasonably have arrived at the decision, either—
  - (a) to direct that the decision, so far as it remains in force, is to cease to have effect from such time as the tribunal may direct, or
  - (b) to require the Commissioners to conduct, in accordance with the directions of the tribunal, a review or a further review of the original decision as appropriate.
- (3) Where, on an appeal under paragraph 1, the appeal tribunal find that a liability to a penalty or to an amount of interest arises, the tribunal must not give any direction for the modification of the amount payable in respect of that liability except—

- (a) in exercise of a power conferred on the tribunal by section 80(6) (penalties),  
or
  - (b) for the purpose of making the amount payable conform to the amount due  
in accordance with this Part.
- (4) Sections 85 and 85B of the Value Added Tax Act 1994 (settling of appeals by agreement and payment of tax where there is a further appeal) have effect as if—
- (a) the references to section 83 of that Act included references to paragraph 1  
of this Schedule, and
  - (b) the references to value added tax included references to plastic packaging  
tax.